

CALIFORNIA

No. 4042

SUPERIOR COURT OF THE STATE OF

FOR THE COUNTY OF SAN DIEGO

3

4 Coordination Proceeding Special Title) JCCP

2

5 (Rule 1550(b)),)
6)
7 In re Tobacco Cases II)
8 -----) Volume

2
9 The People of the State of California,) (Pages
276-430)

10 et al., v. Brown & Williamson Tobacco)
11 Corp., et al. (SF No. 996781),)
12 And)
13 People of the State of California,)
14 et al., v. Philip Morris Inc., et al.)
15 (LA No. BC 194217))
16 -----)

17

18

19 DEPOSITION OF:

20 CHRISTINE LOUISE STEELE
21 THURSDAY, MARCH 16, 2000
22 10:05 A.M.

23 REPORTED BY:

24 SUSAN NELSON
25 CSR No. 3202

276

witness,

A.M.,

Street,

CSR No.

1 Deposition of CHRISTINE LOUISE STEELE, the

2 taken on behalf of the Defendants, at 10:05

3 THURSDAY, MARCH 16, 2000, at 515 South Figueroa

4 Los Angeles, California, before SUSAN NELSON,

5 3202.

6

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 22
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 25

1	I N D E X	
2 WITNESS	EXAMINATION	PAGE
3 CHRISTINE LOUISE STEELE		
4 By Mr. L'Orange		282

			E X H I B I T S
	NO.	PAGE	DESCRIPTION
Stevens	104	282	12/5/97 Letter to Colleen
Media	11		From Susan Collister with
Health	12		Flowcharts (A&P2847-A&P2892)
	13	105	California Department of
	14		Service Recommended Media Plan
Health	15		Youth/Prevention
	16		(A&P277-A&P2780)
Health	17	106	California Department of
Media	18		Services January-June 1993
Health	19		Plan General Market
	20		(A&P156-A&P188)
	21	107	California Department of
	22		Services Anti-Smoking Media
	23		Campaign (A&P2744-A&P276)
	24		
	25		
	280		
	1		E X H I B I T S
Health	2	NO.	DESCRIPTION
	3	108	California Department of
	4		Services Anti-Smoking Media
Report	5		Campaign (A&P536-A&P5418)
	6	109	2/13/97 Asher/Gould Conference
Health	7		(A&P3699-A&P3698)
	8	110	California Department of
	9		Services Tobacco Control Media
"Advertising"	10		Campaign (A&P3720-A&P3737)
	11	111	Document entitled
	12	112	5/18/99 Letter to Chuck Wolfe
	13		from Barry Schoenfeld
	14		(A&P7530-A&P7531)
	15	113	Audiotapes
	16	114	Print and Outdoor Ads
	17		(114, 114 A through H)
	18		
	19		
	20		
	21		
	22		
	23		
	24		
	25		

3
4 CHRISTINE LOUISE STEELE,
5 having been first duly sworn, was
6 examined and testified further as
follows:
7
8 EXAMINATION (CONTINUED)
9 BY MR. L'ORANGE:
10 Q. Miss Steele, good morning. This is a
11 continuation of your deposition. And as we
assured you
12 and your counsel, we will conclude today by
3:00, and we
13 appreciate you coming over for the second day.
14 Just to refresh your recollection, the
15 proceeding that will take place today is going
to be
16 virtually identical to what we did yesterday.
All the
17 admonitions that I gave to you at the outset of
the
18 proceeding yesterday applies and is applicable
today as
19 they did yesterday.
20 Do you have any questions at all --
21 A. No.
22 Q. -- about the admonitions.
23 You have been handed what has been
marked as
24 Exhibit 104.
25 (The document referred to was
marked

282
104
1 by the C.S.R. as Defendants' Exhibit
1 for identification and attached to and
2 made a part of this deposition.)
3
4 BY MR. L'ORANGE:
5 Q. Could I ask you to just take a moment
and
6 examine the document, then I have some
questions that
7 I'd like to pose to you on it.
8 A. Okay.
9 Q. Okay. This is a December 5, 1997,
letter --
10 cover letter that is being forwarded to Colleen
Stevens.
11 Do you see at the bottom under cc's,
it says
12 "C. Steele"?
13 A. Yes.
14 Q. That would be you, would it not?
15 A. Yes.
16 Q. All right. Were you involved in the
17 preparation of the underlying document, which
is dated
18 December 5, 1997, and is entitled "California
Department
19 of Health Services, Tobacco Control Section,
1993-1997
20 Media Flowcharts and Creative Rotations"?

21 A. No.
22 Q. Was this prepared at your request?
23 A. No.
24 Q. Do you know where the origin of this
document
25 is?

283

Collister
designed
is a
1993 to 1997
that
question?
media that
discussion
going to
minute and
does it
aired
is
say that
carefully
284
aired
the ethnic
out of the
moment to

1 A. Colleen Stevens requested that Sue
2 provide her with this information.
3 Q. Now, is it your understanding what is
4 to be shown in the December 5th, 1997, document
5 summary of all of the media that aired from
6 as well as showing what the rotations were on
7 media?
8 A. What was the first part of your
9 Q. Is this designed to show all of the
10 aired in the time period 1993 to 1997?
11 A. I couldn't say for sure because the
12 was between Colleen and Sue.
13 Q. All right.
14 A. But it appears to indicate that.
15 Q. I didn't mean to cut you off. I was
16 ask you to take a look at the document for a
17 tell me, based on your review of the document,
18 first depict a summary of all of the media that
19 between 1993 and 1997?
20 A. No.
21 Q. Was there more media that aired than
22 depicted in Exhibit 104?
23 A. Yes.
24 Q. Okay. Would it be a fair statement to
25 Exhibit 104 depicts -- and I pick my adjective

here -- the vast majority of the media that was
between 1993 and 1997?
A. It doesn't appear to include all of
advertising media that was run.
Q. Okay. Anything else that's missing
'93 to '97 summary? Other than the --
A. It appears that's all that is missing.
Q. All right. Now, can I ask you for a
look at what is marked as 2849, just for

clarification.

various lists of -- see "SS" "Bedroom," names of message? "Bedroom," television for a December Advertising" 285

10 Under "Livingston & Company," we see various lists of -- categories of TV, and then there seems to be 12 of words. What I want to confirm is, where you 13 and, for instance, it says "Kitchen," 14 "Kitchen," "Industry Spokesman," are these the 15 TV commercials dealing with an antismoking A. I don't know what "SS" refers to.
Q. Okay. What about "Kitchen,"
18 "Kitchen," "Industry Spokesman," "Subliminal,"
19 "Personals," "Delivery Room"?
20 A. Yes. Those are the names of 21 commercials dealing with antismoking.
Q. Okay. Now, let me ask if you would 23 moment, please turn to 2851. It's a July to 24 1994 time frame. Says "Asher/Gould
at the 25 top of the page.

1 A. Yes.
2 Q. Now, again, you see a breakdown of television,
3 radio, teen, outdoor.
4 Do you see that on the document?
5 A. Yes.
6 Q. Now, beneath "General Public & Youth,"
there
7 appear to be dates, and besides the -- beside
the dates,
8 again appear to be titles with percentages.
9 Are the dates that are depicted on
this page
10 the inclusive dates when antismoking advertising would
11 have been aired?
12 A. There are other documents I would need
to look
13 at to determine that.
14 Q. As you sit here today, do you have any
reason
15 to believe that "Numbers," slash, "Sepia" of 50
percent,
16 "Industry Spokesman" 50 percent, was not aired
on a
17 50/50 basis between September 26th and November
6th?
18 A. No. That's -- it appears to indicate
that
19 that's when those were run, at those levels.
20 Q. Okay. Now, if I may draw you -- and
-- and
21 would that be true, to the best of your

knowledge, based

and
titles of
indicating the
22 on the rest of the entries that we find on 2851
23 subsequent pages listing, what appear to be
24 antismoking commercials with percentages
25 rotation?

286

as vague

true?

that 2851

"Sepia" of

would have

the rest of

Again,

set forth

that those

during those

back, if

at, 2849.

February,

as to

thereby

commercials?

because these

weren't sure

1 A. Would what be true?
2 MR. VANDERET: Object to the question

3 and ambiguous.

4 THE WITNESS: I agree. Would what be

5 BY MR. L'ORANGE:

6 Q. The description that you just gave me

7 appears to depict the inclusive dates when the
8 antismoking commercial "Numbers," slash,

9 50 percent, "Industry Spokesman," 50 percent,

10 run. Is that same analysis apply -- true to

11 the entries that are reflected in the document?

12 we're trying to make sure we understand what's

13 in the document.

14 A. It appears for the dates indicated

15 are the names of the commercials that ran

16 time frames at those levels.

17 Q. Okay. Now, can I draw your attention

18 you would, please, to the first page we looked

19 And under the various time breakouts, teen TV,

20 March, and April, do you have any understanding

21 whether "SS" stands for secondhand smoke,

22 indicating these are secondhand smoke

23 A. I would believe that it doesn't

24 aren't all secondhand smoke commercials.

25 Q. Okay. You indicated earlier you

287

1 what it stood for.

2 After looking at the document, has

3 recollection been refreshed at all as to what

4 means?

5 A. No.

6 Q. Do you know who prepared this

document? I know
but, to
preparation of
or she had
Bates stamp
Health
Media
media
advertising
288
summary
by agency
guess that.
with that
would
attention to
figures
accepting that
placement
foundation.
next page.

7 the cover letter is signed by Sue Collister,
8 your knowledge, was she involved in the
9 the document?
10 A. I'm not sure whether she prepared it
11 someone else prepare it.
12 Q. Is she still with the agency?
13 A. No.
14 Q. Do you know where she is?
15 A. No, I don't.
16 Q. Now, if I could draw your attention,
please, to
17 the back of the document to page 2889 by the
18 and ask you to review the chart for just a
moment.
the chart
19 Can you tell me what is depicted on
20 that's entitled "California Department of
21 Services," slash, "Tobacco Control Section,
22 Placement Allocations," July 1994, dash, 1997?
23 A. It appears to indicate the amount of
24 placed in the years indicated by medium by
25 agency.

1 Q. Would you agree with me that this is a
2 of the activities covering July of '94 to 1997
3 and by type of advertising?
4 A. I can't confirm that. I couldn't
5 Q. Do you have any reason to disagree
6 characterization?
7 A. Some of the numbers look lower than I
8 have anticipated.
9 Q. All right. Now, let me draw your
10 the footnotes at the bottom, which indicate the
11 reflect media placement buys but do not include
12 production or public relations activities.
13 Would that help you in terms of
14 these numbers are a summary of the media
15 allocations for the period of time stated?
16 MR. VANDERET: Objection. Lack of
17 THE WITNESS: No.
18 BY MR. L'ORANGE:
19 Q. Okay. Let me ask you to look at the

October 9,
included
20 This is a Bates number 2890. This is an
21 1997, letter directed to Colleen Stevens.
22 Under the cc's, do you see yourself
23 along with other Asher/Gould personnel?
24 A. Yes.
25 Q. Do you have a recollection of
receiving this

289
document?
A. No.
Q. Do you have a recollection of
reviewing it at
any time?
A. No.
Q. Now, this document appears to be a
duplication -- 2891 appears to be a duplication
of 2889.
Would you agree with me on that after
examining
it?
A. It appears.
Q. All right. Seeing the document as
part of a
refresh
have seen
this information on or about October 5th, 1997?
A. I can't remember back what I saw in
1997.
Q. Do you have any reason to disagree
with the
as part of
what I
that this
does that
reflected
low but
figures that are set out in Bates number 2891
Exhibit 104?
A. Again, they look low to me, based on
would have expected.
Q. Okay. Now, again, with the caveat
appears to depict media placement allocations,
influence at all your feeling that the numbers
on this document are low?
A. That could be one reason why they're

290
not the only reason.
Q. What would be the other reasons that
they are
low?
A. Maybe there's some media cost missing.
looking at media plans, it's difficult to tell
this is comprehensive or not.
Q. All right. Do you have any estimate
Without
whether
for me as

sorry.
what the
expected
budgets by
fall
these
yesterday
relations
a range.
what I'm
opposed
whether or not
Recommended

8 to how low you think these numbers -- I'm
9 Do you have any estimate as to how --
10 difference is between what you would have
11 versus what is depicted?
12 A. Yesterday I told you the range of
13 advertising agency, and, if so, these did not
14 within these ranges. That's why I would expect
15 were low.
16 Q. Okay. Now, the ranges you gave me
17 would have included production and public
18 costs; would they not?
19 A. I said I didn't know because they were
20 Q. All right. Let me walk you through
21 going to characterize as primary documents, as
22 to the summary that I showed you, and see
23 we can get at the budgetary numbers that way.
24 If I could ask you to take a look at a
25 "California Department of Health Services,

291

time period
number
mark
marked
105
take a
left-hand
media
the

1 Media Plan for Youth Prevention." I'm going to
2 represent to you this appears to be for the
3 of July 1993 through June of 1994. It's Bates
4 commencing 2771.
5 I'm going to ask the court reporter to
6 this next in order, please.
7 (The document referred to was
8 by the C.S.R. as Defendants' Exhibit
9 for identification and attached to and
10 made a part of this deposition.)
11 BY MR. L'ORANGE:
12 Q. Now, ma'am, if I can ask you to just
13 moment and review this.
14 A. Okay.
15 Q. Do you recognize -- strike that.
16 Let me ask you to look at the upper
17 corner above the word "month."
18 Do you see Livingston & Company?
19 A. Yes.
20 Q. All right. Have you seen recommended
21 plans in this format while you were employed at

antismoking
plan

22 Livingston & Company agency performing the
23 activities from 1992 to 1994?
24 A. Yes.
25 Q. Have you seen this particular media

292

1 before?
2 A. I don't recall.
3 Q. Seeing it today, does it refresh your
4 recollection in any way that you were involved
in the
plan?
5 creation or supervision of this particular
involved
6 A. Would you rephrase that.
7 Q. Sure.
8 Do you have any recollection of being
9 in the supervision of this particular plan?
10 A. Well, I don't recall seeing this
document, so I
11 don't recall if this was the final plan or
proposed plan
12 or what this sheet represents.
13 Q. Do you have any recollection of a
youth
14 prevention media plan being placed into
operation during
15 the time period July 1993 through June 1994
while you
16 were at Livingston & Company?
17 A. Yes.
18 Q. Now, can I ask you to turn to the
second page.
19 Have you at any time seen this chart
in the
20 past?
21 A. I don't recall seeing it.
22 Q. All right. Have you seen budget
spending
employed
23 charts constructed in a similar fashion while
campaign?
24 at Livingston & Company in the antismoking
25 A. I don't recall.

293

working at
chart
budget
at the
what amount
Livingston

1 Q. All right. Based on your experience
2 Livingston & Company, can you tell me what this
3 depicts?
4 A. It appears to depict the approved
5 figures for media plan and what had been spent
6 time of the preparation of this document and
7 of dollars had not yet been spent.
8 Q. Is this the type of summary that
9 would submit to the California Department of

Health

department's
would be
if you
plan?
this
initial page
slash,
prepare it.
at

10 Services either routinely or upon the
11 request?
12 A. I don't recall this form.
13 Q. Is this the kind of information that
14 submitted to the Department of Health Services
15 were seeking approval for a recommended media
16 A. No.
17 Q. Do you have any explanation as to why
18 chart would appear in conjunction with the
19 2771 entitled "Recommended Media Plan Youth,"
20 "Prevention"?
21 MR. VANDERET: Objection. Calls for
22 speculation.
23 THE WITNESS: No, because I didn't
24 BY MR. L'ORANGE:
25 Q. Who prepared recommended media plans

294

there?
with or
reflect,
whether they
that
program from
received
going to
and,
we're
knowledge, a
that
from 1994 to

1 Livingston & Company during the time you were
2 A. David Acosta.
3 Q. Any idea where he is today?
4 A. No.
5 Q. Do you have any reason to disagree
6 object to the figures set out on page 2772 of
7 Exhibit 105?
8 A. I have no ideas what the figures
9 whether they are accurate or inaccurate,
10 are comprehensive or not.
11 Q. Does Asher have any documents at all
12 reflect what has been spent in the Prop 99
13 1994 to the present?
14 A. I believe so, yes. And I believe you
15 that.
16 Q. Okay. Let me represent to you we're
17 go through what we have for budgetary documents
18 regrettably, they are all of the pedigree that
19 examining on now.
20 Is there a spreadsheet, to your
21 flowchart, some summary document within Asher
22 depicts the spending in the Prop 99 program

23 the present?
24 I know we talked about estimates
yesterday.
25 But we're looking for a document that we could
use as

295
1 support for those estimates.
2 A. There's a summary document from the
start of
3 the program to date showing spending in the
Prop 99
4 program.
5 Q. Can you tell me what the title of that
document
6 is?
7 A. No.
8 Q. Do you know who has custody of that
document?
9 A. The State. And they gave us a copy.
10 Q. All right.
11 Can you tell me when that occurred?
12 A. Within the last two years. Well, if
it shows
13 now -- well, I guess within the last year.
14 Q. Do you recollect who gave you the
copy? Was it
15 Colleen Stevens?
16 A. The copy just appeared on my desk. I
don't
17 know how we received it.
18 Q. Do you know who the transmitting
person was?
19 A. No.
20 Q. Did it come from the Department of
Health
21 Services or the Tobacco Control Section?
22 A. The Tobacco Control Section.
23 Q. And you -- it's your recollection this
occurred
24 in about the last year? Would that be a fair
25 characterization?

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1 A. Yes.
2 Q. Based on what you've seen with respect
to the
3 numbers depicted on page 2772, as you sit here
today, do
4 you have any reason to disagree with those
numbers?
5 MR. VANDERET: Objection to that
question.
6 Asked and answered.
7 THE WITNESS: I think I answered that.
8 BY MR. L'ORANGE:
9 Q. I'm sorry?
10 A. I answered that.
11 Q. Which was?
12 A. I said I don't know because I don't
know what
13 this chart is. I don't know what it reflects.
I don't

it's
I don't
marked
106
297
Prop 99
proposed
or ad
presents the
as vague
present
State.
it out
that occur
for us
don't
the phone.
but are you
information
to the
as vague

14 know if it's comprehensive. I don't know if
15 missing things. I don't know who prepared it.
16 know why it was prepared.
17 MR. L'ORANGE: Okay. Can I have
18 document beginning 0156.
19 Mark this next in order, please.
20 (The document referred to was
21 by the C.S.R. as Defendants' Exhibit
22 for identification and attached to and
23 made a part of this deposition.)
24 BY MR. L'ORANGE:
25 Q. Before you examine the document --

1 A. Oh, before. Okay.
2 Q. -- as the person who supervises the
3 account, are you involved in the creation of
4 budgets to submit to the State for various ads
5 campaigns under the program?
6 A. Yes.
7 Q. Are you the person who actually
8 budgetary information to the State?
9 MR. VANDERET: Object to the question
10 and ambiguous.
11 BY MR. L'ORANGE:
12 Q. In other words, you meet with them and
13 the proposal to them?
14 A. I recommend budget allocations to the
15 They provide me with a budget, and then I break
16 for them.
17 Q. Are these budget discussions items
18 in the 12 to 50 personal meetings you described
19 yesterday that you have with the State?
20 A. Many times they're over the phone. I
21 remember if they have been in person or over
22 Q. It's a colloquial characterization,
23 essentially the eye in the needle for budget
24 as it goes from Asher to the State with respect
25 Prop 99 program?

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1 MR. VANDERET: Object to the question
2 and ambiguous and unintelligible.

information responds information people there. makes the standpoint? of years, Stevens has your -- following extensions. the executives. My

3 THE WITNESS: I don't really know.
4 BY MR. L'ORANGE:
5 Q. Are you the single portal for that
6 to be communicated to the State, and the State
7 to that information and transmits alternate
8 back?
9 A. Sometimes I do it with a team of
10 Sometimes I do it alone.
11 Q. But you're the person who ultimately
12 decisions on the budgets from Asher's
13 A. I have been up until the last couple
14 and in the last couple of years, Colleen
15 done the budget breakouts.
16 Q. Do you create a summary at the end of
17 strike that.
18 The program operates on a fiscal year
19 commencing July 1 each year to June 30 the
20 year?
21 A. Generally, yes. Sometimes there's
22 Q. And who prepares the summary of all
23 spending that is done during that fiscal year?
24 A. I've done it in the past. My account
25 supervisors have done it. My account

299 as ethnic physically you for State? all of year of would for a

1 assistant account executives. Member of the
2 asher&partners' account management team as well
3 members of the account management teams of the
4 subcontractors.
5 Q. And to the extent that you don't
6 prepare the summaries, are they submitted to
7 review prior to their being forwarded to the
8 A. Yes.
9 Q. All right. So essentially, you do see
10 the budgetary information that covers a fiscal
11 spending at some point?
12 A. I -- I should, yes.
13 Q. All right. Let me ask you, if you
14 moment, to take a look at what's been marked as
15 Defendants' 106.
16 Do you feel comfortable --
17 A. Okay.

18 Q. All right.
19 A. Yeah.
20 Q. If I could ask you to look at the
title page on
21 Bates 0156, you'll note that in the lower
right-hand
22 corner, it says, "Livingston and Keye, December
4,
23 1992."
24 Were you employed at the agency at
that time?
25 A. I don't remember any exact start date
at

300
1 Livingston and Keye, but I believe I was
employed there
2 at this time.
3 Q. All right. Were you working in any
way on the
4 Prop 99 program?
5 A. I don't recall the start date that I
started at
6 Livingston and Keye, which is when I started
working on
7 the Prop 99 program. So sometime in 1992, I
began
8 working at Livingston and Keye.
9 Q. All right. Would it be a fair
statement for me
10 to say that at least your recollection is you
were an
11 employee -- you think you were employed at
Livingston
12 and Keye prior to December 4 of 1992?
13 A. Yes.
14 Q. All right. Do you have a recollection
of
15 working on the creation of the document that's
depicted
16 at Bates 0156 following California Department
of Health
17 Services, January through June 1993 Media Plan
General
18 Market, paren, Incorporating Ethnic Scheduling,
close
19 paren?
20 A. No.
21 Q. Do you know who prepared the document?
22 A. No.
23 Q. Were you involved in any way in
reviewing the
24 document?
25 A. I don't know.

301
1 Q. Do you have any recollection of
reviewing and
2 modifying the document in any way?
3 A. No.
4 Q. All right. On Bates number 0157, if
you'll
5 look at the beginning of the last paragraph on

that

6 page, the sentence reads:
7 "The campaign resumed in the
8 fall of 1992 with the campaign
9 at teens and adults aged 18 through
49."
10 Do you have any recollection of being
involved,
11 either from a supervisory or from a creative
standpoint,
12 in the fall of 1992 campaign?
13 A. I believe I was involved in that
campaign.
14 Q. Also, if I could draw your attention
to the
15 introduction paragraph, the last sentence makes
mention
16 of a goal of surpassing the 50 percent bonus
media
17 weight.
18 What's that refer to?
19 A. Every year for the State, we're
charged with
20 securing 50 percent additional free media
weight for
21 them.
22 Q. What's the term "media weight" mean?
23 A. For example, if you had a \$10 million
budget
24 for paid media, our goal would be to get \$5
million
25 worth of free media.

302

the
1 Q. So that, in other words, the total or
million as
2 cumulative amount of advertising could be 15
3 opposed to --
4 A. Would be worth 15 million.
5 Q. Okay. All right.
6 Drawing your attention to Bates 0158,
the
7 following page, there is reference to the fall
of '92
8 plan, and the indication is, quote:
9 "The overall goal of the plan
is
10 to change the social norms about
tobacco
11 among the general public," close
quote.
12 Do you have any reason to disagree
with that
13 goal?
14 A. I'm on the wrong --
15 Q. I'm sorry. 0158.
16 A. Okay.
17 Q. Top of the page.
18 A. Okay. Do I -- what is the question?
19 Q. The question is, do you have any
reason to

you have
strategy
convoluted and

20 disagree with the overall objective statement?
21 A. No.
22 Q. Looking at the overall strategy, do
23 any reason to disagree with what the overall
24 was as set forth in this document?
25 A. I think that strategy's really

303
what it's
the
long-term
than
you're
agrees with
one of the
than
agree or
those as
different
mind of
was trying
they were
that you

1 difficult to understand. So I don't even know
2 trying to say.
3 Q. Would you agree with me that at least
4 campaign seems to suggest developing a greater
5 understanding of the dangers of tobacco rather
6 trying to effect short-term behavior changes?
7 MR. VANDERET: I don't understand what
8 asking.
9 MR. L'ORANGE: Asking her if she
10 the last part of the statement that at least
11 goals of the campaign was to effect a long-term
12 understanding of the dangers of tobacco rather
13 effect short-term changes of behavior.
14 THE WITNESS: I couldn't say that I
15 disagree with that. I think we've had both of
16 goals.
17 BY MR. L'ORANGE:
18 Q. Throughout the campaign?
19 A. Every year we have different goals,
20 strategies. It's hard for me to get into the
21 this author and see what he was -- he or she
22 to communicate.
23 Q. What were the goals or objectives as
24 explained to you for the fall 1992 campaign
25 participated in?

304
in the
discussion
understanding about
create a

1 A. To decrease the prevalence of smoking
2 State of California.
3 Q. Do you have any recollection of any
4 about creating a greater long-term
5 the effects of tobacco as opposed to trying to
6 short-term behavioral change?

7 A. I don't have a recollection of those
kinds of
8 discussions.
9 Q. If I could ask you to look at page
0159.
10 You'll note that there are strategies that are
11 recommended on the page.
12 With respect to the statement, quote,
"Identify
the
strategy
13 key segments of the general public to target
campaign's going
14 campaign," close quote, is the purpose of this
15 to identify the target group that the
campaign's going
16 to be directed at?
17 MR. VANDERET: Objection. Calls for
18 speculation. Lack of foundation.
19 THE WITNESS: I didn't write this. I
don't
20 recall seeing it, so I don't know what this
page is
21 trying to show or communicate.
22 BY MR. L'ORANGE:
23 Q. But you were involved in the campaign,
were you
24 not?
25 A. Yes.

305
1 Q. And was part of the execution of the
campaign
2 to identify target groups?
3 A. Yes.
4 Q. All right.
5 And was one of the target groups of
this
6 particular campaign kids aged 10 to 14?
7 A. I recall a teen target group.
8 Q. Would that be the media target of
teens 12
9 through 17?
10 A. Yes.
11 Q. All right.
12 And media target -- a second target
group would
13 have been women aged 18 to 34?
14 A. I don't recall that we ever targeted
women
15 specifically.
16 Q. Was there an attempt to target opinion
leaders
17 based on a media target of adults 25 to 54 in
the
18 professional and managerial categories?
19 A. That's what this appears to suggest.
20 Q. Okay.
21 Do you have any recollection of that
being
22 discussed in the campaign as it was being
formulated in
23 the fall of 1992?
24 A. Yes.

25 Q. And was that, in fact, a target group
that the

306

1 campaign was focused on?
2 A. I believe so, yes.
3 Q. All right.

4 Now, if I can -- would you look at
0162,
columns

5 please. By way of explanation, there are five
6 here, and the first one is entitled "ADI."
7 What does that stand for?

8 A. Area of dominant influence.

9 Q. And that means what?

10 A. It's the area where a television --

television
are

11 signals predominantly cover. So these counties

12 predominantly covered when you purchase
television for

13 Los Angeles. The signals reach that far.

14 Q. All right.

15 The next -- if you skip over "County,"

the next

16 column is "TV HH's."

17 What does that mean?

18 A. Television households.

19 Q. So the numbers in this column depict

the number

20 of households that the signal will reach?

21 A. I believe so, if these numbers are
accurate.

22 Q. All right.

23 We're not saying the number of people.

We're

24 saying the number of households. Correct?

25 A. Yes.

307

1 Q. All right.
2 Now, the next column has percentage of

-- is --

3 and I'm going to assume "CA" means California?

4 A. Yes.

5 Q. Do you have any understanding as to
how these
they are

6 numbers are compiled or the source from which

7 drawn?

8 A. I'm surprised there isn't a source
listed, so I

9 don't know the source.

10 Q. Based on your experience working for
Livingston

source were

11 and Keye in the '92 to '94 time frame, if no

numbers

12 listed, would that indicate to you that these

13 are compiled by Livingston or somebody in
Livingston?

14 A. No. I would think that they just
forgot to put

15 the source.
16 Q. The next column is entitled "Spill
In."
17 What does that mean?
18 A. "Spill in" means the amount of media
that you
area, but
mean.
19 buy in one area that spills over into another
20 I don't know what those numbers listed there
mean.
21 Q. Let me make sure I understand. For
instance,
22 if you look down at Ventura County, we're
reaching in
23 round numbers, about 223,000 households which
comprise
24 2.1 percent of the population of California,
and there
25 is a spill in of 5.

308
is of the
target
California" give
that in any
mean?
trying
advertise in
get the
you would
advertise
somebody in
And
Nevada;
309

1 A. I don't know whether the 2.1 percent
2 population of California or a percentage of the
3 audience that we were trying to reach.
4 Q. All right.
5 Does the title "Percentage of
6 you any assistance on that?
7 A. No. Could be either.
8 Q. All right.
9 Looking at the Ventura entry, does
10 way assist you in telling us what the 5 would
11 A. No.
12 Q. When you talk about -- and, again, I'm
13 to understand the concept of spill in.
14 A. Right.
15 Q. How exactly does that -- if I
16 Sonoma, somebody whose house is close enough to
17 signal in the adjoining county, is that what
18 call --
19 A. Right. They might see it. Or if you
20 on the border of California and Arizona,
21 Arizona might see your message.
22 Q. Okay.
23 If I can ask you to look at page 0164.
24 just as a point of clarification, we're doing a
25 California campaign, but we're listing Reno,

1 Medford, Oregon; and Phoenix. I presume that's
Arizona.

other
signal?
of the
in
--
premise
it, this
there
Oregon, and
of spill
messages
California
or
markets
don't know
wanted to
have to buy
are those

2 This is an example of spill in? In
3 words, these folks could receive a California
4 MR. VANDERET: Object to the premise
5 question. I don't understand what we're doing
6 California again.
7 MR. L'ORANGE: I'm sorry. You don't
8 MR. VANDERET: I don't understand the
9 of the question.
10 MR. L'ORANGE: Well, as I understood
11 is Prop 99 money being spent in California, but
12 are entries for Reno, Nevada, and Medford,
13 Phoenix.
14 Q. And my question is, are those examples
15 in in the sense that they would receive the
16 because they could receive signals from a
17 station?
18 A. I don't know whether it's showing that
19 whether it's showing that you have to buy those
20 in order to reach people in California. I
21 what those -- that listing is showing.
22 Q. Okay. So, in other words, if you
23 reach Alpine or El Dorado counties, you may
24 in Reno?
25 A. Well, I don't know if those are in --

310

the bottom
showing in
showing
percentage of
California.
this

1 in California?
2 Q. Alpine County is, yeah.
3 A. It is? Okay.
4 Q. So is El Dorado.
5 A. So --
6 Q. All right. I understand now.
7 Now, if I can draw your attention to
8 of the page, in terms of TV households, we're
9 round numbers about 10,800,000, and we're
10 100 percent in the next column, which is
11 either California or your target audience in
12 Are we saying, essentially, that if
13 campaign were to be aired in the manner that is

depicted
reaching
California or
conclusion?
referring to. I
people
chart
counties or

14 on Bates 162 through 164, you're essentially
15 100 percent either of the population of
16 your targeted audience? Is that a fair
17 MR. VANDERET: Objection. Calls for
18 speculation. Lack of foundation.
19 THE WITNESS: No.
20 BY MR. L'ORANGE:
21 Q. What would be wrong with that
22 A. I don't know what this page is
23 don't know if it's referring to the number of
24 reached by our campaign or if it is just a
25 indicating the percentage of people in the

311
I don't
campaign at
what
whether it's
as vague
0162. This
relation
since I
I don't
beginning
creation
January through
that plan?

1 if it's a chart all about who receives spill.
2 know if this page has any relation to our
3 all.
4 Q. In other words --
5 A. This might just be a total of showing
6 percentage of population resides where.
7 Q. In other words, you're not sure
8 connected to 0162 or not?
9 MR. VANDERET: Object to the question
10 and ambiguous.
11 THE WITNESS: The same applies to
12 chart doesn't necessarily have anything or any
13 to do with the media campaign. Or it may. But
14 didn't prepare it and I don't recall seeing it,
15 really know what it's all about.
16 BY MR. L'ORANGE:
17 Q. All right.
18 Let me ask you to look at the charts
19 at 0166 and continuing through 0168.
20 Were you involved in any way in the
21 of this chart?
22 A. No.
23 Q. You'll note that it addresses a
24 June 1993 media plan.
25 Were you involved in the creation of

Keye at the
would have
knowledge?
media
approval
at
judgment, who
the media
possession
aired?

1 A. No.
2 Q. Did you supervise that plan?
3 A. No.
4 Q. Were you employed by Livingston and
5 time?
6 A. Yes.
7 Q. Is there any reason why this plan
8 been put together and submitted without your
9 A. I don't supervise the development of
10 plans.
11 Q. Were they provided to you for your
12 prior to submission to the State while you were
13 Livingston and Keye?
14 A. No.
15 Q. Who would have -- in your best
16 would have prepared this document?
17 A. David Acosta.
18 Q. Would he have discussed his
preparation of this
19 document with you in any way?
20 A. He may have. He may not have.
21 Q. Is there any way we can tell whether
22 depicted on Bates 0166 through 0168 aired?
23 A. No.
24 Q. Are there documents currently in the
25 of Asher which would tell us whether this media
aired?

313
knowledge, in the
would
look at
tell me
Bates
please.
99
see the
media?

1 A. I don't believe so.
2 Q. Are there documents, to your
3 possession of the Tobacco Control Section which
4 tell us when this media aired?
5 A. I don't know.
6 Q. All right.
7 Now, let me ask you, if you would, to
8 Bates beginning 0169 through 0171.
9 Is there any way whether -- you can
10 whether the media depicted in those inclusive
11 numbers aired?
12 A. No.
13 Q. If you would, please, turn to 0172,
14 In the course of supervising the Prop
15 campaign of Livingston and Keye, did you ever
16 budget summary from January through June 1993

17 A. I don't recall.
18 Q. All right.
19 Let me ask you to examine the document
for a
20 minute.
21 To your knowledge, who would have
prepared this
22 budget summary?
23 A. I don't recall.
24 Q. Do you have a recollection of seeing
it at any
25 time?

314
1 A. No.
2 Q. Looking at the totals depicted on the
document,
3 do you have any reason to agree with -- to
disagree with
4 them?
5 A. I've never seen this. I don't know
what it
6 refers to. I don't know if it's accurate or
inaccurate.
7 Q. Does Asher maintain a budget file in
its
8 documents that deal with the budgets for media
campaigns
9 or ad campaigns for each of the years that it's
had the
10 account?
11 A. No.
12 Q. How do you keep track of what is spent
for each
13 year?
14 A. We do budgetary summaries like we were
talking
15 about before.
16 Q. All right.
17 Let me interrupt you. We went through
all your
18 docs last night. We don't have any budgetary
summaries.
19 We're working with, frankly, documents that
this is as
20 good as it gets --
21 A. Hm-hm.
22 Q. -- to be honest with you.
23 Is there a specific title of the
budgetary
24 summaries?
25 A. It is just -- it usually says the time
frame

315
1 represented, and then it's entitled "Budget
Summary,"
2 and then it breaks out the spending.
3 Q. All right. Now, recognizing you
didn't publish
4 or prepare this --
5 A. Hm-hm.
6 Q. -- and you don't have a recollection

of

7 reviewing it --
8 A. Hm-hm.
9 Q. -- is there any other reason why you
would
set out
1993?
10 either disagree or not accept figures that are
11 in this budget summary for January through June
confidence in
documents
15 the media director at Livingston and that his
16 that he prepared frequently were inaccurate.
set out in
high or
17 Q. Is the total cost number that he has
18 his budget summary -- is it your sense it's too
19 too low or can you tell?
20 A. I can't tell.
off the
21 MR. L'ORANGE: Okay. Why don't we go
22 record for a minute.
23 (Discussion held off the record.)
24 (Recess taken.)
25 MR. L'ORANGE: Mark this, please.

316

marked

107

take a look

involved

period

account at

the middle

delivery of

some

for us

1 (The document referred to was
2 by the C.S.R. as Defendants' Exhibit
3 for identification and attached to and
4 made a part of this deposition.)
5 BY MR. L'ORANGE:
6 Q. Miss Steele, if I could ask you to
7 at what has been marked Defendants' 107.
8 A. Okay.
9 Q. Have you seen this document before?
10 A. I don't recall.
11 Q. Do you have any recollection of being
12 in the preparation of the document in any way?
13 A. No.
14 Q. You will note that it covers a time
15 July '94 through June '95.
16 Were you supervising the Prop 99
17 Asher/Gould during that period of time?
18 A. Yes, I was.
19 Q. You will note on Bates 2745 that, in
20 of the document, you are reporting a bonus
21 57 percent, reflecting roughly 4,240,000 and
22 change.
23 Is this the bonus system you described

that was
24 earlier that you secured additional advertising
25 free in the amount of roughly \$4,240,000?

317

Yes.

1 A. We secure additional media weight.
2 Q. So my statement --
3 A. That wasn't very clear.
4 Q. I'm sorry. My statement was correct?
5 A. Could we do it again.
6 Q. My -- my question was, in reviewing

Bates 2745,

addition

also able

roughly

7 is, in essence, what we are reporting that, in
8 to the paid media that you purchased, you are
9 to get additional media which had a value of
10 \$4,240,000?

indicate.

11 A. That's what this page appears to
12 Q. All right.
13 Now, if I could ask you to turn to

Bates 2749

here. If

depicts?

we

media

time,

and then a

bonus we

indicated in the

who

14 so we can generally understand what's going on
15 you would look at the chart for a moment.
16 Can you tell me what this chart
17 A. It appears to depict the medium that
18 advertised in, the time frame, the amount of
19 dollars that may have been expended during that
20 the amount of value media that was received,
21 calculation is done that shows what percent
22 achieved for a total bonus dollar value
23 final column on the right.
24 Q. Do you have any understanding as to
25 prepared this document?

318

someone

if not by

at

the

1 A. No.
2 Q. Would it be your opinion that it was
3 employed by Asher/Gould?
4 A. Not necessarily.
5 Q. Who would have prepared this document
6 Asher/Gould?
7 A. Western International Media or someone
8 Asher/Gould would have prepared this.
9 Q. Okay.
10 Now, you'll note on the first page at
11 bottom, it says, "prepared by Asher/Gould"

Advertising"?

12 A. Yes.
13 Q. Do you have any reason to disagree

with that at

14 all?
15 MR. VANDERET: That's what it says or

that --

16 MR. L'ORANGE: Well, that it was
prepared by

17 somebody at Asher/Gould.

they may

18 THE WITNESS: Parts of it may have --
19 have assembled things prepared by other people.

They

20 may have prepared it. I don't know who did
this chart.

21 BY MR. L'ORANGE:

22 Q. Was there somebody in your
organization that
23 was tasked with preparing budget summaries

during the

24 time you ran the Prop 99 program?

25 A. Preparing budget summaries?

319

1 Q. Hm-hm.
2 A. Yes.
3 Q. Was there someone charged with
preparing bonus

4 delivery analyses?
5 A. It would either be someone at
asher&partners

6 media department or someone at Western
International

7 Media.
8 Q. If it were Asher/Gould at the time --
9 A. Hm-hm.
10 Q. -- April 18th, 1995, who, in your

opinion,

11 would it have been?
12 A. I don't know.
13 Q. Were there people who were customarily

assigned

14 roles preparing either bonus delivery analyses
or budget

15 summaries within your team?

16 A. The bonus analyses -- I think I just
said that

17 it's either someone at asher&partners' media
18 department -- I don't know who -- or someone in

Western

19 International's company. I don't know who.

20 The budget summaries we discussed
earlier,

21 myself and my account management team.

22 Q. If I could ask you to turn to 2749,
please.

23 A. Hm-hm.

24 Q. Looking at the figures depicted on the
chart,

25 do you have any reason to disagree with them?

320

don't have

any reason

foundation.

to agree

present in

that the

television in the

21st, '95,

understand,

Department of

-- the

policy,

inaccurate or

numbers.

could I

1 A. I don't know what they reference. I
2 anything to relate them to.
3 Q. I understand that.
4 What I'm asking you is, do you have
5 to disagree with the figures?
6 MR. VANDERET: Objection. Lack of
7 THE WITNESS: I don't have any reason
8 or disagree.
9 BY MR. L'ORANGE:
10 Q. Do you have any documents that are
11 the production from Asher which would verify
12 actual expenditure for general public
13 time period September 26th, '94, through May
14 was, in fact, \$3,668,100?
15 A. I don't know.
16 Q. Is this a document, so far as you
17 that is to be directed to the California
18 Health Services?
19 A. It appears that way. That's who it's
20 title is for.
21 Q. All right. It would not be Asher's
22 would it, to submit numbers that were
23 incorrect?
24 A. Our policy is to submit accurate
25 MR. L'ORANGE: All right. If I may,

321

marked

108

just examine

proposed

1 1 have 5361, please.
2 If you would, please.
3 (The document referred to was
4 by the C.S.R. as Defendants' Exhibit
5 for identification and attached to and
6 made a part of this deposition.)
7 BY MR. L'ORANGE:
8 Q. All right.
9 Can I ask you to take a moment and
10 the document.
11 A. Okay.
12 Q. Okay.
13 Have you seen this document before?
14 A. I don't recall.
15 Q. Would you agree with me that it is a
16 fiscal 1995-1996 meeting plan?
17 A. It appears to be that.

supervisor
proposed
media plans?

18 Q. And in the course of your job as the
19 of the Proposition 99 account, did you present
20 fiscal media plans to the State?
21 A. Did I? No.
22 Q. Who presented the proposed fiscal
23 A. People from our media department.
24 Q. Would that be Leah Mitchell?
25 A. I don't know which member of the media

322
presented.
have been
doing.

1 1 department presented it. Or if this was
2 It says "proposed," so it could never
3 presented. It may not even be what we ended up
4 Q. Were you involved in any way in the
preparation
in
she
State
media plan?

5 of the document?
6 A. No.
7 Q. Did you talk to Leah Mitchell at all
8 preparation for this deposition about whether
9 presented proposed fiscal media plan to the
10 representatives?
11 A. Whether she presented this proposed
12 Q. Any proposed.
13 A. No, I didn't -- we didn't have a

discussion
fiscal media
Generally, I give
discuss the
develop a
changes,
management
media
have
person or

14 about that.
15 Q. If you would, please, tell me how
16 plans were prepared and presented to the State.
17 A. It varies from year to year.

18 the media department a media budget. We
19 overall objectives for the campaign. They
20 media plan. They show it to me. I make
21 sometimes minor, sometimes major.
22 And then someone from the account
23 team, usually myself, and someone from the
24 department -- and that varies who that would
25 been -- presents the plans to TCS, either in

323
or --
because this

1 over the phone. Generally in person.
2 Q. I'm sorry. Over the phone generally
3 A. But -- generally in person. But

4 says "proposed," I don't know if this was a
draft that
5 was presented or never presented. I don't know
if this
6 is what ran or what didn't run.
7 Q. How many drafts would you have,
typically, in
8 the course of preparing the media plan?
9 A. It varies year to year.
10 Q. How many drafts do you recollect with
respect
11 to the media plan in 1995-1996?
12 A. I don't recall -- recollect how many
drafts
13 were prepared.
14 Q. Are you aware of any instance during
the time
15 you've been with Asher/Gould or asherg&partners
where a
16 draft media plan was essentially rejected and
an
17 entirely new and completely different draft
media plan
18 was created covering the entire year?
19 A. No.
20 Q. Can you tell me how media objectives
are --
21 strike that.
22 Did you participate in the
determination of the
23 media objectives?
24 A. No. I participate in the development
of the
25 marketing objectives.

324
'95-'96
1 Q. Who would be the participants in the
time
2 time frame in determining media objectives?
3 A. Members of our media department.
4 Q. And who would that be in the '95-'96
account at
5 frame?
6 A. I'm not sure who was working on the
on the
7 that time. We had a variety of people working
8 account.
9 Q. Leah Mitchell was working on it. We
know that;
10 correct?
11 A. Yes.
12 Q. Who else besides Leah Mitchell?
13 A. I don't know.
14 Q. Who comprised your media department in
the
15 1995-1996 time frame?
16 A. I don't know.
17 Q. What is your understanding of how
members of
18 the media department determine what the media
objectives
19 are going to be?

objectives
with our
up with
your
time frame?

20 A. I believe they marry the marketing
21 that I provide them with or that we discuss
22 budgets and our target audiences, and they came
23 what the objectives for the media plan are.
24 Q. Do you have a recollection of what
25 marketing objectives were for the 1995-1996

325
to
the state
primary
year
you'll note
bullet point
budget
too
that.
decreases
not?
there have
years those
State
funding
the
on
326

1 A. Generally, as I stated yesterday, it's
2 decrease the prevalence of smoking throughout
3 of California and to focus on those four
4 strategic areas, although it appears that this
5 teens were also a target.
6 Q. Asking you to turn to page 5366,
7 under the geography discussion, the second
8 states, quote:
9 "However," comma, "as the
10 decreases with the success of the
11 campaign," comma, "the danger is to
12 attempt to spread the media dollars
13 thin," period, close quote.
14 Were there discussions in -- strike
15 In the '95-'96 time frame, there were
16 in the State's funding of Prop 99, were there
17 A. As I stated yesterday, I know that
18 been ups and downs with the budget. Which
19 ups and downs occurred, I don't know.
20 Q. Do you recollect any discussion with
21 representatives that portions of the Prop 99
22 were being directed into the general fund by
23 Governor's office as opposed to being expended
24 Prop 99?
25 A. Yes.

discussions may
period?

1 Q. Do you recollect that these
2 have taken place in roughly the 1995-1996 time
3 A. I don't recollect the time frame.
4 Q. All right.

the

5 Was the period of decreased funding of
6 program roughly from about 1994 to 1996?
7 A. I think I answered that, my
recollection of
8 when the budget decreased and didn't decrease,
but I
9 don't know exactly which years it decreased and
which
10 years it didn't, and this isn't referring to
that.
11 Q. Can you tell me what this is referring
to?
12 A. This is basically referring to as --
since the
13 Prop 99 campaign is funded by a tax on
cigarettes, as
14 fewer and fewer people smoke, the budget goes
down. We
15 put ourselves essentially out of business, the
better
16 job we did.
17 Q. Lawyers do that, too.
18 So, in essence, what you're indicating
is -- is
19 that the more successful Prop 99, the less the
budget
20 will be because you have achieved what you're
seeking,
21 which is a decrease in the prevalence of
smoking?
decide to
22 A. Yes. Unless the remaining smokers
23 start smoking more packs.
24 Q. More. Okay.
25 The paragraph then goes on to make
mention

327

because of the
was a major
time,
centers in
centers of
set
targeting?

1 about concentrating media dollars in the major
2 population centers of the state?
3 A. Yes.
4 Q. Do you have a recollection that,
5 budget decreases through Prop 99, that there
6 change in media objectives for this period of
7 that, i.e., you would target major population
8 the state?
9 A. We always target major population
10 the state.
11 Q. Is the tier 1, tier 2 analysis that is
12 forth on 5366 the manner in which you do that
13 A. Yes.
14 Q. All right.
15 Now, let me represent to you this was
the first
16 document that I saw referenced to tier 1, tier

2. I did

17 not see it in previous media plans.
18 Was there a change in the program such
that you
19 began using the tier 1, tier 2 analysis in the
'95 time
20 frame?
21 A. There's a change in advertising
agencies from
22 Livingston to asher&partners, so they may have
used
23 different language. But I recall seeing things
you just
24 showed me similar.
25 Q. But it was your understanding that
while the

328

1 syntax or the verbiage may have been different
at
2 Livingston, that agency was also targeting
major
3 population centers?
4 A. I believe so, yes.
5 Q. All right.
6 And then would it be a fair statement
that the
7 proposed three-tier market selection may have
been
8 executing the same strategy but described
differently by
9 Asher? Would that be a fair characterization
of what's
10 going on here?
11 A. I believe that both advertising
agencies
12 focused on major population centers. I don't
recall
13 whether both agencies broke out the markets in
this
14 manner.
15 Q. Drawing your attention to page 5367,
you'll
16 note under "rationale" -- based on your role as
the
17 supervisor of the program for Asher, do you
have any
18 reason to disagree with the tier 1, tier 2
analysis
19 concerning the percentages of the total adults
in
20 California or the teen population as is set
forth on
21 this document?
22 A. I can't say for sure that those
numbers
23 represent the population of the state at that
time. I
24 don't have those figures memorized.
25 Q. All right.

329

1 Setting that aside, do you have any

reason to
that are

5380.

contains three

bullet
as set
the
as
Gould, was

spots
audience
gave us

I said

most cost
reach.

delivery
greatest

330

as we

bullet point

identify
by adults,

for

of the

strategy you had

2 disagree with the percentage characterizations
3 set forth in the document?
4 A. No.
5 Q. If you would, please, turn to page
6 The last paragraph essentially
7 bullet points. If you could take a moment and
read the
8 paragraph.

9 A. Okay.
10 Q. Okay. Now, I recognize that these
11 points are articulated in this media strategy
12 forth on 5380, but would it be true that one of
13 general goals of the Prop 99 program, at least
14 administered by asher&partners or Asher and
15 to reach the general public effectively with
16 connected with programs that had the highest
17 delivery, the rating point analysis that you
18 yesterday?

19 A. What I feel comfortable saying is what
20 yesterday, that the goal was to reach people
21 effectively and in programs that -- with high
22 Q. Okay.
23 Because you want the highest audience

24 because you want your message to get out to the
25 number of people; true?

1 A. We always want to reach as many people
2 can within our budget parameters.
3 Q. Okay.
4 Now, that would be also true for

5 number 2, would it not, that you'd want to
6 those programs that have the greatest crossover
7 communication effect that are watched heavily
8 teens, and English-speaking ethnicities?

9 A. That's true for certain areas and not
10 others. It depends on our strategy.
11 Q. Okay. Can you give me a general idea
12 years where it would be true, given the

you are
access, you
would reach
that they
it not?
deliver our
not.
access to
labeled
331

13 adopted.
14 A. No.
15 Q. Now, with respect to those years that
16 developing media strategies around youth
17 would want to place spots with programs that
18 the highest number of concerned parents such
19 would influence their children.
20 That would be a fair statement, would
21 A. Sometimes we used television to
22 youth access messages, and some years we did
23 Q. In the years that you used television
24 deliver your messages, would the bullet point
25 number 3 on document 5380 be true?

concentrate
wanted to get
18-plus.
those
concerned
supervisor from
strategies that
since I
measure the
never
indicates
down. Some
up. It
data on
331

1 A. No.
2 Q. And why wouldn't it be true?
3 A. Sometimes, some years, we wanted to
4 on concerned parents, and other years, we
5 our message about youth access out to adults
6 Q. Would bullet point number 3 be true in
7 years where you wanted to concentrate on
8 parents?
9 A. It appears to be, yes. True. Yes.
10 Q. In your position as the program
11 1992 forward, do you believe that the
12 were adopted either by Livingston or by Asher
13 accomplished their goals?
14 A. I would hope that they did. However,
15 indicated yesterday that the State didn't
16 effectiveness of their program, I guess we'll
17 know.
18 Q. Do you have any efficacy data which
19 that the prevalence of smoking has declined in
20 California?
21 A. Some years, the prevalence has gone
22 years, it stayed flat. Some years, it's gone
23 depends on the target audience.
24 Q. Who provides you with the efficacy
25 that?

the
give us --
the
group
you
take it you
of this
seeing it?
have no
mediums
would be able
implemented?
chart
since this
believe

1 A. There's some study conducted called
2 behavior something something study that they
3 that the TCS gives us every year that indicates
4 prevalence of smoking. I -- I forget the exact
5 that provides it.
6 Q. All right. Let me ask you to look, if
7 would, at 5400.
8 A. Okay.
9 Q. Based on your earlier testimony, I
10 would not have been involved in the preparation
11 document?
12 A. Right.
13 Q. Do you have any recollection of ever
14 A. No.
15 Q. And would your testimony be that you
16 idea as to whether any of these advertising
17 either were posted or aired?
18 A. That would be my testimony.
19 Q. All right. Who at asher&partners
20 to tell us whether this program was ever
21 MR. VANDERET: Objection. Calls for
22 speculation.
23 THE WITNESS: You can't tell from this
24 whether or not things aired, and especially
25 was a proposed media plan, you can't -- I don't

please.
marked
109
take a
entitled

1 anyone would be able to tell you that.
2 MR. L'ORANGE: If I could have 3699,
3 (The document referred to was
4 by the C.S.R. as Defendants' Exhibit
5 for identification and attached to and
6 made a part of this deposition.)
7 BY MR. L'ORANGE:
8 Q. Miss Steele, if I could ask you to
9 moment and look at what's been marked as
10 Defendants' 109, please.
11 A. Okay.
12 Q. Now, at the top of the document it's
13 "Conference Report."
14 Do you see that?

15 A. Yes.
16 Q. And it says under "present," if you
read across
17 for agency, there's a "C. Steele."
18 That would be you; right?
19 A. Yes.
20 Q. All right.
21 Do you have a recollection of this
particular
22 conference?
23 A. No.
24 Q. Do you have any reason to doubt you
were not
25 there?

334

1 A. No.
2 Q. Looking down about almost to the
bottom of the
3 page. It's the third footnote up or the third
bullet
4 point. There's an indication, a media budget
of 12
5 million 894 -- I'm sorry -- \$12,894.30 was
agreed to.
6 Do you have any recollection of that?
7 A. Of what?
8 Q. That media budget being agreed to?
9 A. No.
10 Q. Now, let me ask you, if you would, to
take a
11 look at page 3713. I'm trying to figure out
what's
12 going on here.
13 MR. VANDERET: 3713?
14 MR. L'ORANGE: Please.
15 MR. VANDERET: Oh, I guess my copy --
oh. Copy
16 was misassembled.
17 MR. TERRY: Here.
18 BY MR. L'ORANGE:
19 Q. It's entitled "Budget." Beneath that,
it says
20 "Supplement Budget."
21 A. Yes.
22 MR. VANDERET: Then it goes to 36.
23 BY MR. L'ORANGE:
24 Q. Do you have any recollection of a
supplementary
25 budget in the sum of \$1,279,000 and some change
being

335

1 discussed at this conference with respect to
the
2 broadcasting of commercials addressing
smoke-free bars?
3 A. A vague recollection. Because I
barely
4 recall -- well, I don't recall the meeting. I
have a
5 vague recollection that that may have been
discussed.

the figure

figures on --

about is

proposed for

what the

It's a

bullet point

low. I

number

media

336

Q. You have no reason to disagree with
as set out in 109?

MR. VANDERET: There's a lot of

MR. L'ORANGE: The one we're talking
on 3717.

MR. VANDERET: Okay.

THE WITNESS: Disagree about what?

BY MR. L'ORANGE:

Q. That that was the figure that was
spending with respect to smoke-free bars?

A. It looks like that was a proposed
figure.

Q. Do you have any recollection as to
figure actually turned out to be?

A. No.

Q. Now, let me ask you to look at 3703.
chart. Now, the reason I ask you about the
for \$12,000 is it struck me as being a little
looked at the grand total set out on 3703. The
appears to be \$12,894,300.

Would that sound like a more accurate

the

some point

budgets are

some point

you as to

year?

budget.

the type

given to

1 budget as opposed to the \$12,894.30?

A. Yes.

Q. Okay.

I'm trying to get an understanding of
process here.

Are there conferences conducted at
during your fiscal year when total media
approved?

A. Could you ask it a different way.

Q. Sure.

Are there conferences conducted at
during the fiscal year when the State advises
what your budget will be for the coming fiscal

A. Every year the State gives us our

Q. I understand that.

But do they do it at a conference of
that appears to be depicted in this memo dated
February 13th, 1997?

A. No.

Q. How -- how is the budget customarily
you?

22 A. Generally, Colleen calls me on the
phone and
23 says, "Here's your budget."
24 Q. So for fiscal 2000, you have a budget
25 hypothetically of \$20 million.

337

1 MR. VANDERET: I don't understand the
question.

2 BY MR. L'ORANGE:
3 Q. Would that be how it would be
delivered to you?

4 A. Colleen would call and say, "Here's
your budget
5 for the fiscal year."

6 Q. Now, as I understand it, you then
segment out
7 some portion of that for your subcontractors;
correct?

8 A. In the past I have done it. And, as I
said
9 earlier --

10 Q. I'm sorry. She's doing it now.
11 A. -- for the past two years, she's done
it.

is for
12 Q. All right. So the budget that you get
here's
13 Asher; correct?

14 A. She says, "Here's Asher's budget, and
make your
15 the subs' budget."

16 Q. All right. And then you, from that,
for Asher
17 allocations among the various media components

18 then to implement?
19 A. Yes.
20 Q. All right.

21 A. I don't personally, but Asher does.
22 MR. L'ORANGE: Let's take about five
minutes.

23 MR. VANDERET: Okay.
24 (Recess taken.)
25 BY MR. L'ORANGE:

338

I'm having
1 Q. As I was indicating off the record,
respect
2 some difficulty understanding the process with

3 to these proposed media plans.
4 Explain to me, if you would, what is
the
5 administrative process, I guess I'd call it,

that occurs
6 from the time you get the phone call from
7 Colleen Stevens advising you as to what Asher's
budget

8 is to the point where you are creating
recommended media
9 plans. What's the process that you go through?
10 A. Colleen calls and says, "Here's your
budget for

we need
11 the year." Then I consider all the things that
12 to achieve for the year.
13 Strategically, in regards to our
ethnic
things I
14 subcontractors productionwise, a variety of
up with a
15 look at and I break out the budget, and I come
16 number for paid media.
17 And I meet with members of our media
18 department, and I say, "Here are our strategic
19 objectives for the year. Here's the budget you
have to
20 achieve those -- to address those objectives in
media."
21 And they take that and the objectives
in hand,
22 and they go off and they develop a media plan.
23 Several weeks later, they show me a
draft of
24 the media plan, and I make changes, major or
minor.
25 And then we get it to the point where
we feel

339
either
go over
1 comfortable presenting it to the client, and we
take
2 have a meeting or we -- a phone call where we
marked
3 the proposed media plan with the client.
4 Q. All right.
5 So with respect -- and let's -- let's
6 hypothetically --
7 Let me mark next in order.
8 (The document referred to was
110
9 by the C.S.R. as Defendants' Exhibit
look for a
10 for identification and attached to and
11 made a part of this deposition.)
12 BY MR. L'ORANGE:
13 Q. All right. Now, let me ask you to
time in the
14 moment at Exhibit 110.
it?
15 Have you seen this document at any
right-hand
16 past?
17 A. This document, no.
18 Q. Do you recognize the handwriting on
19 A. No.
20 Q. All right. At the bottom of the
21 corner, there appears to be the name "Leah"?
22 A. Yes.
23 Q. Would that be Leah Mitchell?
24 A. Could be.
25 Q. Are there other Leahs that it could be
within

me in your

by

analyze the
objectives

your

the State

wrong --

subcontractors in

achieve?

upon,

assign certain

television.

yes.

what?

department and

are that

plan

objectives?

media

marked

1 the Asher organization?
2 A. No.
3 Q. Now, I flowcharted out what you told
4 conversation.
5 You are given a total budget for Asher
6 Miss Stevens in her call; correct?
7 A. Yes.
8 Q. All right. Now, when you began to
9 strategic objectives, these are strategic
10 that have essentially been arrived at through
11 conversations with the State in terms of what
12 wants to achieve for that year?
13 A. Yes.
14 Q. And presumably -- correct me if I'm
15 you have discussions with the ethnic
16 terms of what they should be planning to
17 A. Yes.
18 Q. Now, once these objectives are decided
19 you then do a budget breakout wherein you
20 amounts for paid media?
21 A. Yes.
22 Q. Paid media would be radio, print,
23 A. Those are some kinds of paid media,
24 Q. Other forms of paid media would be
25 A. Outdoor.

1 Q. Okay. Billboards.
2 A. Billboards.
3 Q. Okay. You then go to your media
4 advise them of what the strategic objectives
5 you and the State have agreed upon.
6 A. Yes.
7 Q. You then ask them to create a media
8 consistent with achieving those strategic
9 A. Yes.
10 Q. All right. Now, is that where the
11 department creates a recommended flowchart or a
12 recommended media plan similar to what has been
13 as Exhibit 110?
14 A. Yes.
15 Q. Now, this then -- this document or a

document

resubmitted

16 similar to this, similar to 110, is then
17 back to you for review?
18 A. Yes.
19 Q. All right.
20 The purpose of that review is for you
to
21 determine whether the media plan that's been
recommended
22 meets the strategic objectives that you and the
State
23 have agreed upon?
24 A. It's for me to have an overall look at
the
25 media plan.

342

that you

best

constraints

time --

December 1996

recommended

then -- and

that you

media plans

more

review

their

covering a

of times

1 Q. Okay. Would one of the objectives
2 want to achieve is that you're delivering the
3 possible message consistent with the budget
4 that you have to deal with?
5 A. Yes.
6 Q. All right. How many media -- how many
7 recommended media plans for a defined period of
for instance, in the case of July through
9 as depicted in Defendants' 110 -- how many
10 media plans would you review? Just one and
11 then tweak it so that it meets the objectives
12 want to achieve, or would you have multiple
13 that you would review?
14 It's a bad way of asking do you review
than one for a defined period of time?
16 A. Sometimes, yes.
17 Q. And sometimes no?
18 A. Hm-hm. Sometimes I review -- I always
19 two. Two would be the minimum I would review,
20 initial draft and then another draft.
21 Q. The media plan, is it customarily
22 period of six months?
23 A. No.
24 Q. What is the maximum and minimum period
25 the media plans cover?

343

1 A. The maximum is generally a year.
2 Q. And the minimum could be?
3 A. Three to six months.
4 MR. L'ORANGE: Tim, can I have zero --

bottom of
the note
6/12/96?
Asher/Gould
the
anyone

5 Q. If I could ask you to look at the
6 Exhibit 110.
7 Do you recognize the handwriting where
8 appears, "okayed by Colleen"? Appears to be
9 A. No, I do not.
10 Q. Would Colleen be Colleen Stevens?
11 MR. VANDERET: Objection. Calls for
12 speculation.
13 THE WITNESS: I don't know.
14 BY MR. L'ORANGE:
15 Q. Do you know who Colleen is?
16 A. Do I know who Colleen is on this page?
17 Q. Yes.
18 A. No.
19 Q. Is there a Colleen employed by
20 roughly in 1996 that you're aware of?
21 A. No.
22 Q. Do you have any reason to believe that
23 Colleen set forth at the bottom of the page is
24 other than Colleen Stevens?
25 A. No.

344
is there
that they
It's not
client signs
in the
signature at
have 0042,
want -- I
second.

1 Q. When the State approves a media plan,
2 a formal letter that is sent to you indicating
3 will approve it, or is it done by telephone?
4 A. No. There's not a formal letter.
5 done by telephone.
6 Q. How is the approval obtained?
7 A. We send a media estimate, and the
8 it, approving some or all of the plan.
9 Q. And the media estimate is usually sent
10 form of a letter calling for the State's
11 the bottom?
12 A. Sometimes just an estimate is faxed.
13 Sometimes -- it -- generally, it's just faxed.
14 MR. L'ORANGE: Okay. Tim, could I
15 please.
16 Q. Before we get into this, would you
17 think --
18 A. Oh, okay.
19 Q. I think it's there.
20 MR. VANDERET: Off the record for a
21 MR. L'ORANGE: Yeah.
22 (Discussion held off the record.)
23 (Recess taken.)
24 BY MR. L'ORANGE:
25 Q. We touched on this yesterday very,

very

345

that.
the
through the

"interact"?

your
either

funded?

the list,

--

companies

recollection of
were

concerning

about

by

346

market

constraints?

nothing

Actually, I

placed in

1 briefly, but do you interact at all -- strike

2 Does Asher interact at all with any of

3 advertising agencies that are being funded

4 MSA moneys?

5 A. No. You mean -- what do you mean,

6 Q. Have they made any requests for any of

7 video, audio, or print materials utilized in

8 Prop 99 or Prop 10?

9 A. Who are the lists of the MSA agencies

10 Q. I beg your pardon?

11 A. I can't answer that without knowing

12 the names of all the agencies that are funded.

13 Q. I'm not talking about agencies. I am

14 A. Oh.

15 Q. -- I'm talking about the -- the ad

16 that have been retained.

17 MR. VANDERET: That's what she's --

18 BY MR. L'ORANGE:

19 Q. Do you have -- do you have any

20 being contacted by anybody indicating that they

21 involved in the MSA plan, seeking information

22 what's been produced in Prop 99?

23 A. I don't. I don't have any information

24 that.

25 Q. The ads that are produced and funded

346

1 Prop 99, are they played to any form of a test

2 prior to being released generally?

3 A. No.

4 Q. Is that because of budgetary

5 A. I don't know what it's due to. It's

6 the client has ever wanted to do recently.

7 Q. What about earlier?

8 A. They may have done it earlier.

9 I don't believe they have ever done it.

10 Q. Are any --

11 A. With a few exceptions.

12 Q. Are any of the ads, prior to being

13 the general media, premiered, if you will, in

front of
that

14 focus groups for feedback?
15 A. Sometimes.
16 Q. Can you characterize that as something
determine whether
focus group?
have it
and before
specific ad
group

17 occurs on a regular basis? Is it sporadic?
18 A. Sporadic.
19 Q. And what are the factors that
20 you're going to have an ad placed before a
21 A. Whether or not the client wants to
22 tested before it airs -- after it's completed
23 it airs.
24 Q. Do you have a recollection of any
25 or campaign that has been placed before a focus

347
that's
aired but
medium,
aired?
you've
were those
the
were not
out, how
instructions
and you'd
tell us

1 prior to it being aired?
2 A. Yes.
3 Q. And which ad or campaign?
4 A. I recall recently an ad called "Slave"
5 been tested in focus groups and has not yet
6 has been completed.
7 Q. Is it an ETS ad?
8 A. No.
9 Q. Have any of the ETS ads, in whatever
10 been placed before a focus group prior to being
11 A. I don't recall.
12 Q. The ads that are on the videotape that
13 reviewed and authenticated for us yesterday,
14 ads all aired at some time during the course of
15 Prop 99 program?
16 A. I don't know.
17 Q. Are there any of the ads listed that
18 aired?
19 A. I don't know.
20 Q. If we wanted to find that information
21 would we make that determination?
22 A. You would go to that pile of
23 yesterday, the traffic rotation instructions,
24 see if any of the titles on here were missing.
25 Q. And if they were missing, that would

348
1 that they were not aired?
2 A. No, because that pile of documents

actually

3 might not be complete from the beginning of the
4 campaign.

least

5 Q. Who within Asher would know whether at

produced

6 the spots produced by Asher were aired?

were

7 A. I would.

you mark

8 Q. All right.

marked

9 Now, limiting my question to the spots

10 by Asher that are set forth on Defendants' 98,

11 those spots all aired?

12 A. Yes.

13 MR. L'ORANGE: Madam Reporter, would

14 that for me, please.

15 (The document referred to was

16 by the C.S.R. as Defendants' Exhibit

111

17 for identification and attached to and
18 made a part of this deposition.)

19 (Discussion held off the record.)

20 BY MR. L'ORANGE:

21 Q. Have you had an opportunity to examine
22 Exhibit 111?

23 A. Yes.

24 Q. Do you recognize this as a portion of
25 asher&partners' web site?

349

creation of

1 A. Yes.

2 Q. Were you involved in any way in the

an

did it go

site?

agency to

site

site.

any of

That's all.

would, to

the mission

3 the web site?

4 A. No.

5 Q. This may sound silly, but did Asher as

6 advertising agency create its own web site, or

7 to another advertising agency to create its web

8 A. They didn't go to another advertising

9 create a web site. They may have used a web

10 development company, or they may have done it

11 themselves. I don't know who created the web

12 Q. Okay.

13 Were you asked at any time to approve

14 the statements contained on the web site?

15 A. I believe that I reviewed my bio.

16 Q. All right. Can I ask you, if you

17 turn to the mission statement.

18 A. Hm-hm.

19 Q. Now, at the top left-hand corner of

20 statement, it indicates what "we stand for,"

and then

the page.

the mission

21 the mission statement is set out at the top of
22 A. Yes.
23 Q. Do you disagree with any portion of
24 statement as it's set out in the web site?
25 A. No.

350

the

have

program

Proposition 99

and your

State's

it

effort, and

the climb

objective,

developed

marketing

answered.

measure

believe that

regardless of

1 Q. Now, as the person who supervised the
2 Proposition 99 program at Asher from 1994 to
3 present, do you believe that you and your team
4 developed a memorable marketing communications
5 in response to the State's requests for
6 ads?
7 A. Yes.
8 Q. Same question, do you believe that you
9 team have developed an effective marketing
10 communications program in response to the
11 requests for ads for Proposition 99?
12 A. I would hope so, although the State --
13 doesn't measure the effectiveness of our
14 there are a lot of things that contribute to
15 in the prevalence of smoking. And that's our
16 and the ad campaign is only one thing.
17 Q. Do you believe that you and your team
18 effective marketing commun- -- an effective
19 communications program?
20 MR. VANDERET: Objection. Asked and
21 THE WITNESS: Just answered that.
22 BY MR. L'ORANGE:
23 Q. You've told me that the State doesn't
24 effectiveness. I'm asking you whether you
25 the program you developed was effective

351

not.

it.

team

1 whether the State measures effectiveness or
2 A. I said that I would hope so. And it's
3 unfortunate that I have no concrete evidence of
4 Q. Is it your belief that you and your
5 implemented a memorable and effective marketing
6 communications program?
7 A. I thought I just answered that.

8 Q. No. We spoke -- we spoke about
development.
9 We didn't talk about implementing.
10 A. Oh, okay. Do I believe we implemented
--
11 Q. Yes, ma'am.
12 A. -- a memorable -- I believe we
implemented a
13 memorable marketing plan. I hope that we
implemented an
14 effective marketing plan. What role our plan
has played
15 in the decline of the prevalence of smoking, I
can't
16 say.
17 Q. Now, the bottom portion of your
mission
18 statement indicates that the "team of
passionate and
19 innovative professionals are committed to
exceeding the
20 business goals of our client partners."
21 Is it your belief that the marketing
and
22 communications plan developed by Asher since
1994 under
23 Proposition 99 exceeded the goals of the
California
24 Department of Health Services?
25 A. No.

352
1 Q. Did you meet the goals of the
California
2 Department of Health Services?
3 A. I think we've all been frustrated that
the
4 prevalence of smoking was flat for some time
when we'd
5 hoped for a decline.
6 Q. Is it your belief that your marketing
and
7 communications program did not meet the goals
of the
8 State?
9 A. No.
10 Q. All right. What is lacking in not
meeting the
11 goals of the State? Simply that the prevalence
of
12 smoking has remained flat in the State?
13 A. What's the question?
14 Q. What goals have you not met from the
California
15 Department of Health Services?
16 A. We had an overall goal of decreasing
the
17 prevalence of smoking by 75 percent by the year
2000,
18 and I believe that we did not meet that goal.
I think
19 we missed it by 7 percent.
20 Q. I'm sorry. By 7?

21 A. 7.
22 Q. All right. So the prevalence
decreased --
23 instead of 75 percent, it decreased by 68
percent?
24 A. I haven't done the math, but I could.
25 Q. And I don't mean to be flip with you

--

353
1 A. Right.
2 Q. -- but a 7 percent difference would
suggest to
3 me it's 68 percent, not 75 percent.
4 Would -- would that be a fair
characterization?
5 A. No. I'm saying that right now, I
think the
6 prevalence of smoking is around 18 percent, and
I
7 believe a 75 percent reduction since the
inception of
8 the campaign would have led to the total
prevalence
9 being around 9 percent. So the difference
between
10 9 percent and 18 percent -- actually, it's
around
11 9 percent. So I think we've missed the goal by
around 7
12 to 9 percent.
13 Q. Okay. Is that the only goal that you
feel the
14 program has not met or exceeded?
15 A. I don't know. I probably list out
hundreds of
16 goals for the campaign, and I'd have to think
about
17 whether each of them had been met or not met or
18 exceeded.
19 Q. With respect to the awareness of the
residents
20 of the State of California as to the health
risks
21 associated with environmental tobacco smoke, do
you
22 believe that your marketing and communications
program
23 has met or exceeded the State goals in making
the
24 residents of California aware of either the
general or
25 specific health effects associated with ETS?

354
1 A. I believe that our campaign has met
those goals
2 over time. However, when there's a lapse in
the media
3 plan, within three weeks, people's recall of
the
4 messages begin to drop off and decline.
5 So frequently throughout our campaign

-- and
to a
experience,
as soon
currently
couldn't
of
trying to
to sound
with
out on
within
Am I
needs to be
to keep
curve of
people

6 unfortunately, media has been put on hold due
7 variety of circumstances where, based on our
8 people's recall of our messages would drop off
9 as three weeks after.
10 For example, we've been off the air
11 for five months -- four to five months. So I
12 state people's current awareness of the dangers
13 secondhand smoke currently because of that.
14 Q. I'm not in your industry, so I'm
15 understand this, and, again, I don't mean this
16 flip in any way.
17 Is it the position of -- let's start
18 Asher -- that once a warning about ETS is sent
19 the media, that a person who hears that warning
20 three weeks is no longer aware of the dangers?

A. It's a belief by Asher that there
23 continuous exposure to the message for people
24 the learning top of mind. There's called a
25 forgetting, and I don't know the percentage of

355
of being
you've
factors
message
tobacco
in the
"forgetness"
for
too.
lot
three

1 that forget a message. But after three weeks
2 off the air, a certain percentage of the people
3 initially reached forget what you've told them
4 altogether.
5 Additionally, there are a variety of
6 that affect whether a person will believe your
7 or not, including public relations from the
8 industry and the prominence of those headlines
9 newspapers, et cetera.
10 Q. I can speak to the curve of
11 16-year-old females.
12 MR. VANDERET: Yeah, I'll second that,
13 MR. L'ORANGE: I can tell you it's a
14 shorter than three weeks. Sometimes it's about

15 hours.
16 MR. VANDERET: And 7-year-old males as
well.
17 I'll --
18 MR. L'ORANGE: That's about three
minutes.
19 BY MR. L'ORANGE:
20 Q. Are you distinguishing between
awareness and
21 belief, and, if so, how are you doing that?
How are you
22 distinguishing in that?
23 A. Actually, I was talking about both
things.
24 Awareness can drop off and belief can be
questioned, or
25 belief can be nonexistent based on other pieces
of

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1 information a target audience receives.
2 Q. Let me go at it this way.
3 Can I be aware of a hazard but choose
not to
4 believe it?
5 A. I don't know what you can be aware of.
I
6 don't -- I don't know.
7 Q. Is there a difference in you or your
agency's
8 approach in making someone aware of a hazard as
9 opposing -- as opposed to making them believe
that the
10 hazard exists?
11 A. I think that media campaigns are
generally
12 designed to make people aware. What we achieve
in terms
13 of whether people actually believe our message,
only
14 that person -- individual would know.
15 Q. In designing your campaigns, do you
distinguish
16 between those persons whom you will reach with
a message
17 who choose not to believe that message but,
18 nevertheless, are aware of its content versus
those
19 persons who are aware of the message and choose
to
20 believe the content?
21 A. No. We don't break it out that way.
22 Q. Is there a difference, at least in
your mind,
23 between a person who is at least aware as
opposed to a
24 person who is aware and believes?
25 A. Is there a difference between those
two people?

357

1 Yes.
2 Q. All right. In terms of the

effectiveness of
that
chooses
who is made
as vague
or say it
the -- you
campaigns are
because
message of
hand on a
some
there's a
stove,
burn their
effectiveness,
it

3 the campaign, is a campaign any less effective
4 imparts awareness to a subject but that subject
5 not to believe as opposed to another subject
6 aware and chooses to believe?
7 MR. VANDERET: Object to the question
8 and ambiguous and unintelligible.
9 THE WITNESS: Would you break it out
10 a different way or say it again.
11 BY MR. L'ORANGE:
12 Q. What I'm asking you is, in terms of
13 indicated to me in earlier testimony that
14 designed to make people aware.
15 Now, my question to you, and, again,
16 I'm not in the advertising business, is there a
17 difference in terms of reaching people with a
18 awareness? They are aware not to put their
19 hot stove because they may be burned. However,
20 segment of that population, while being aware
21 warning about putting their hand on the hot
22 choose not to believe that. They're going to
23 hand.
24 I mean, haven't you, in terms of
25 warned that population. It's just a segment of

358
distinguishing --
here.
my money
indicated to me
have
the State
you

1 chooses not to believe. That's the
2 that's the -- what I'm trying to distinguish
3 A. But what is the question part of it?
4 Q. The question --
5 A. Sorry.
6 Q. Miss Steele, you're making me work for
7 here.
8 What I'm asking you is, you've
9 in some respects you think the program may not
10 achieved effectiveness with respect to some of
11 goals.
12 Now, we've spoken a little bit in your
13 testimony about awareness versus belief.
14 I'm asking you if you have a campaign,

in the
aware
totality of the
campaign
that
chooses not
we've
moment, is it
awareness of the

15 direct it towards a particular population, and
16 course of that campaign, the population becomes
17 but a segment chooses not to believe the
18 message that you're delivering, is your
19 essentially ineffective? I mean, you have made
20 population aware. You have a segment that
21 to believe.
22 A. So I guess we would assess it and say
23 accomplished some things and not others.
24 Q. All right. If we take that for a
25 your belief that you have increased the

359
dangers
running,
since we
of this
not in
somebody can be
Is that
of
of
sheet of
dangerous,
of the
based on
essentially
population

1 residents in the state of California about the
2 associated with environmental tobacco smoke?
3 A. During those times when paid media was
4 yes.
5 Q. All right.
6 A. I don't know what the dropoff has been
7 haven't been on the air.
8 Q. All right. Now, that's the other part
9 I'd like to talk to you about. And, again, I'm
10 the advertising business.
11 Is it your testimony that while
12 made aware, they lose that awareness over time?
13 what we're saying?
14 A. Yes. Some people do.
15 Q. Now, let me take it the next step.
16 If that's true and you ran a campaign
17 advertising where every resident in the state
18 California on January 1st, 2001, received a
19 paper, 8-and-a-half by 11, that said ETS is
20 do not inhale, every resident in the state of
21 California -- you did nothing else for the rest
22 year.
23 Now, am I correct in concluding that,
24 your testimony, that after three weeks, we
25 have no awareness among some segment of the

on the
testimony.

a --
of paper
you're
message.

point
indicating
city of
three
their

awareness only

things.

telling the

stimulants, could

important a

there

as vague

different way.

they

1 because there's been a dropoff?
2 MR. VANDERET: Object to the question
3 grounds it misstates the witness's prior
4 THE WITNESS: Yeah, I don't know what
5 about a sheet of paper and the impact of sheets
6 on people. But generally, in paid media, when
7 not running media, people begin to forget your
8 BY MR. L'ORANGE:
9 Q. And, again, going back to this -- this
10 again, so that if you run a television ad
11 that ETS is dangerous and you run it to the
12 San Francisco, it's your position that, within
13 weeks, some portion of that population forget
14 awareness to the dangers of ETS?
15 A. Yes.
16 Q. Are there any endogenous factors that
17 re-instill that awareness? Or is that
18 reinstilled by another advertising campaign?
19 A. It could be instilled through other
20 Q. Child coming home from school and
21 parent, "We learned today in school that ETS is
22 dangerous"?
23 A. That would be a way.
24 Q. Could be a variety of other
25 there not --

1 A. Yes.
2 Q. -- over that three-week period time
3 reinstilling the knowledge?
4 A. There could be.
5 Q. Under that scenario, is belief that
6 component so long as there are stimuli out
7 reinforcing the awareness?
8 MR. VANDERET: Object to the question
9 and ambiguous.
10 THE WITNESS: Could you ask it a
11 BY MR. L'ORANGE:
12 Q. Does it make any difference whether
13 believe so long as there are stimuli out there
14 reinforcing the awareness?
15 MR. VANDERET: Does it make any

difference in
believes
than if
falloff in
to believe
choose
choose
to believe?

16 what respect?
17 MR. L'ORANGE: Any respect at all.
18 THE WITNESS: Certainly, if someone
19 something, they are more likely to take action
20 they are just aware of it, don't believe.
21 BY MR. L'ORANGE:
22 Q. Is there a greater difference in the
23 populations who are made aware but choose not
24 versus those populations who are made aware and
25 to believe?

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air for
are funded
now.
testimony,
now.
schedule
fact, I
Prop 10
And --
off, and it
flowchart.

1 A. I don't know.
2 Q. In terms of your having been off the
3 five months in Prop 99 -- true?
4 A. Four months, yes.
5 Q. Okay.
6 Are there currently ads running that
7 by Prop 10? That we --
8 A. I don't know if they are running right
9 Q. We identified nine yesterday in your
10 five of which, I believe, were TV spots?
11 A. I didn't say that were running right
12 Q. What is running right now?
13 A. I don't know what the media flighting
14 is, so we could be off the air this week. In
15 think that we are.
16 Q. Under Prop 10?
17 A. Yes.
18 Q. So while Prop 99 has not been running,
19 has been?
20 A. No. Prop 99 has not been running.
21 Q. For four --
22 A. -- for four months.
23 Q. Okay.
24 A. And Prop 10 has been running on and
25 may be off right now. I don't have the media

363
period Prop 99
has been
There

1 Q. But it's been running during the
2 has been off; true?
3 A. For parts of the period that Prop 99
4 off, it has been running. Not all of the time.

5 were sometimes when nothing was running.
6 Q. Now, do the MSA groups have media
spots running
7 today?
8 A. I don't know their media flighting
schedules.
9 Q. Now, if I could ask you, please, to
look at
10 portion of your web site that's entitled "Ads
That
11 Work."
12 A. Okay.
13 Q. Now, the first statement in the
right-hand
14 corner indicates, quote:
15 "Every campaign that goes out
16 our front door is targeted to just one
17 person, the consumer," close quote.
18 If we were to apply that statement in
your
19 case, is the campaign targeted to the consumer
20 essentially who you defined yesterday, smokers
and
21 nonsmokers?
22 A. Yes.
23 Q. Okay.
24 The next sentence says, quote:
25 "After all, if our work
doesn't

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1 move someone to act, to think, to
2 decide, or yes, to buy, then we've
3 failed," period, close quote.
4 Applying that statement to the Prop 99
5 campaign, do you believe that you have moved
someone,
6 presumably the consumers, to act or to think
about the
7 dangers posed by environmental tobacco smoke?
8 A. Yes.
9 Q. Would it be your testimony that
applying that
10 second sentence to the Prop 99 campaign, Asher
hasn't
11 failed in what it set out to do?
12 A. I think I gave testimony earlier about
my
13 beliefs on whether our campaign has been
effective in
14 every regard or not. So failed -- in some
areas, we
15 failed. In some areas, we've succeeded.
16 Q. At least one of the failed areas that
you
17 indicated to me was that there could be between
a 7 and
18 9 percent difference in the prevalence of
smoking in the
19 state; true?
20 A. Yes. Part --
21 Q. Between a target of 75 percent which
you

22 believe it to be?
23 A. Right. Yes.
24 Q. Okay. Can you give me any other
example that's
25 as specific as the prevalence rate of smoking
where you

365
1 think the campaign may have failed?
2 A. I believe that because of the
Governor's
3 intervention in the past and the current
Governor's lack
4 of decisions in the present, that media has not
been out
5 to consumers as frequently or as often as we
would like.
6 And although we don't take responsibility for
that, it
7 has impacted the campaign. Had a negative
impact on the
8 potential effectiveness of the campaign.
9 Q. Okay.
10 Now, let's look down to the second
paragraph.
11 The second sentence reads, quote:
12 "Our antismoking campaign for
13 California has been hailed as a model
of
14 ground-breaking creativity that gets
15 results," close quote.
16 Do you believe that is true as set
forth in the
17 web site?
18 A. Yes.
19 Q. One of the results you got was a
fairly
20 substantial decrease in the prevalence of
smoking in the
21 state of California; true?
22 A. I don't think that you can attribute
the
23 decline in prevalence of smoking or the
increase in
24 prevalence of smoking solely to the media
campaign. So
25 I can't take credit or blame for the direction
it's

366
1 gone.
2 MR. L'ORANGE: Madam Reporter, would
you mark
3 that, please.
4 (The document referred to was
marked
5 by the C.S.R. as Defendants' Exhibit
112
6 for identification and attached to and
7 made a part of this deposition.)
8 BY MR. L'ORANGE:
9 Q. All right. Miss Steele, if I could
ask you to

10 look at what's been marked as Exhibit 112.
11 Do you recognize this letter?
12 A. Yes.
13 Q. This was a letter drafted by Mr.
Schoenfeld and
14 directed to Mr. Chuck Wolfe, who was the deputy
director
15 of the MSA National Foundation?
16 A. Yes.
17 Q. Did you participate in any way in the
drafting
18 of this letter?
19 A. No.
20 Q. Did you discuss the context of this
letter with
21 Mr. Schoenfeld prior to him sending it to Mr.
Wolfe?
22 A. Yes.
23 Q. Did he give you a copy of this letter
to review
24 prior to his sending it to Mr. Wolfe?
25 A. I don't recall.

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any
1 Q. Do you have a recollection of making
2 changes in the letter at all?
3 A. I don't recall.
4 Q. Now, midway through the letter, you'll
see
5 circled a statement that says, quote:
6 "Our work has helped lower
7 California's prevalence almost
8 40 percent," dash, "the single largest
9 decline anywhere in the U.S.," period,
10 close quote.
11 Now, do you have an understanding what
he means
12 when he says "our work"?
13 A. Yes.
14 Q. That would be the advertising
campaign, would
15 it not?
16 A. Yes.
17 Q. All right. And do you agree with the
statement
18 that California's prevalence -- and is he
referencing
19 California's prevalence of smoking?
20 A. Yes, he is.
21 Q. All right. Would you agree with the
statement
22 that the work has helped lower California's
prevalence
23 almost 40 percent?
24 A. Yes.
25 Q. And is it true that that's the single
largest

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1 decline anywhere in the United States?
2 A. At the time of this letter, it was. I
believe.

take?

Q. It's May 1999?
A. I believe so.
Q. Roughly about nine months ago, give or
web site
reference to
everyone
yesterday.
the
what that
"Los
369
don't know
goes
aware of
Angeles
where
look at
series of
site that
posted --

Q. All right. The next sentence in your
8 indicates that your antismoking campaign --
9 the antismoking campaign reads, quote:
10 "It's been the toast of
from the 'New York Times' to the 'Los
12 Angeles Times' and many award shows in
13 between including the 1997 London
14 International Advertising Awards,"
15 period, close quote.
16 We talked about the London awards
17 Did you receive some recognition from
18 "New York Times"?
19 A. This says that we did.
20 Q. Do you have any understanding as to
21 was?
22 A. No.
23 Q. Did you receive recognition from the
24 Angeles Times"?
25 A. We receive a variety of -- we receive

recognition from a variety of places, and I
2 the names of all the places we've received that
3 recognition from for sure.
4 Q. I appreciate that, but my question
5 specifically to any recognition that you may be
6 that your program has received from the "Los
7 Angeles Times."
8 A. I can't recall the specific articles,
9 they're from.
10 Q. I'd like to ask you, if you would, to
11 your copy of the web site.
12 You'll note that the -- there are a
13 advertisements that follow.
14 Is it your understanding that the
15 advertisements that are contained in the web
16 address antismoking messages have either been
17 would that be the correct term?
18 A. Yes.
19 Q. All right. Have they been posted?
20 A. Yes.
21 Q. All right. Do you know over what

period of

22 time?
23 A. No.
24 Q. Now, let me -- if you would, look at
25 Exhibit 112 again, please, the letter.

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fact

Wolfe at the

least to

interested

that was

moment and do

direct your

the media

regard to

him?

Silverman.

1 Did you and Mr. Schoenfeld discuss the
2 that he was going to send the letter to Mr.
3 MSA National Foundation?
4 A. Yes.
5 Q. And was the purpose of the letter at
6 alert Mr. Wolfe that asher&partners might be
7 in participating in the advertising campaign
8 going to be organized by -- through the MSA?
9 A. I have to read the letter.
10 Q. All right. Why don't you take a
11 that.
12 A. Okay.
13 (Recess taken.)
14 BY MR. L'ORANGE:
15 Q. Ma'am, if I can ask you again to
16 attention to Exhibit 112.
17 Had you met Mr. Wolfe in the past?
18 A. Yes.
19 Q. Actually, Mr. Wolfe was involved in
20 campaigns directed against or directed with
21 antismoking efforts in Florida, was he not?
22 A. Yes.
23 Q. Who else was with you when you met
24 A. Bruce Dundore. Lynn Dahl. Bruce
25 That's kind of the group I remember.

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October of

Schoenfeld

done over

Health

May 18th,

program?

1 Q. Okay.
2 That meeting took place on or about
3 1998, did it not?
4 A. I don't remember.
5 Q. Now, in the first paragraph, Mr.
6 makes reference to advertising that Asher has
7 the past years for the California Department of
8 Services.
9 That would be the Prop 99 program?
10 A. Yes.
11 Q. Would it, as of this point in time,
12 1999, include any of the efforts in the Prop 10

for the
described
Angeles County
Department of
campaign.
described
for me with respect to the L.A. County
Health Services yesterday afternoon --
A. Yes.
Q. -- in your testimony? All right.

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letter, does
was, in
Health
you
exerted in
the
apologize, but
sure
anything had
recollecion
Health
say that
attorney general
California?
373

1 A. No.
Q. He then makes reference to advertising
15 Oregon Health Division.
16 That would be the campaign which you
17 for us yesterday afternoon in your testimony?
18 A. Yes.
19 Q. He then also references the Los
20 Tobacco Prevention and Education media
21 Is that the same campaign that you
22 for me with respect to the L.A. County
23 Health Services yesterday afternoon --
24 A. Yes.
25 Q. -- in your testimony? All right.

1 Now, seeing this sentence in the
2 that refresh your recollection that advertising
3 fact, done for the L.A. County Department of
4 Services because, in your testimony yesterday,
5 weren't sure whether any efforts had been
6 that area?
7 MR. VANDERET: I don't think that was
8 testimony.
9 BY MR. L'ORANGE:
10 Q. And if I'm misremembering, I
11 that was my recollection, that you just weren't
12 whether anything had been done.
13 A. What I said was I wasn't sure that
14 run in paid media.
15 Q. Does this letter refresh your
16 that, in fact, paid media may have been run --
17 A. No.
18 Q. -- for the L.A. County Department of
19 Services?
20 A. No.
21 Q. All right. Now, he then goes on to
22 the attorney general -- and is this the
23 for Oregon? Or the attorney general for
24 A. Neither.
25 Q. What attorney general? For Florida?

1 A. No. Christine Gregoire. I think

she's the

2 attorney general for Washington.
3 Q. Okay. And at the suggestion of Bill

Novelli?

4 A. Yes.

5 Q. Who is Mr. Novelli?

heads up

6 A. He is the chairman or president or he
7 the tobacco free kids campaign.

say, he

8 Q. Okay. Mr. Schoenfeld then goes on to
9 is enclosing some additional samples of the
10 California work done by Asher.

latest

11 Now, one of the items he includes is a

TV spot

12 entitled "Gala Event."

13 Was "Gala Event" aired in California?

impotence.

14 A. Yes.

15 Q. Was it an ETS spot?

16 A. No.

goes limp?

17 Q. Could you tell me just briefly what it
18 depicted?

19 A. It's a spot regarding smoking and

record.

20 Q. Is this the one where the cigarette

21 A. Yes.

22 MR. L'ORANGE: Off the record.

23 (Discussion held off the record.)

24 MR. L'ORANGE: All right. Back on the

featured on

25 Q. He indicates that "Gala Event" was

374

May 18th

1 "60 Minutes."

2 Had that been recently in light of the

3 letter?

recently, so I

4 A. His letter says it was featured

remember the

5 guess it was featured recently. I don't

also on

6 date of the "60 Minutes" show.

7 Q. Okay. And you were aware that it was

to

8 the "Today" show and the MSNBC cable TV?

9 A. No.

10 Q. All right.

11 Now, do you have any understanding as

featured on

12 whether or not when he says "Gala Event" was

commercial

13 "60 Minutes," was it part of an antismoking

points,

14 attached to "60 Minutes" because of the rating

with that?

15 or was it actually discussed on "60 Minutes"?

16 A. It was discussed.

17 Q. Were you interviewed in conjunction

18 A. No.

19 Q. Was anyone from Asher interviewed?
20 A. I don't believe so.
21 Q. Okay. Would your testimony be the
same for the
22 "Today" show and MSNBC cable, that the spot was
actually
23 discussed as opposed to being, if you will,
attached to
24 a show?
25 A. Well, I don't know if it was on those
shows. I

375
was
1 think I just said that, so I don't know if it
2 discussed or if it aired.
3 Q. At least --
4 A. But I could guess, but I shouldn't
guess so --
5 Q. Well, I'll take your best estimate.
6 A. My guess is that it was discussed on
the shows.
7 Q. Okay. Mr. Schoenfeld then goes on to
say that
8 there's another spot on this reel of
commercials
9 entitled "Voice Box."
10 Is this the elderly woman who --
11 A. Yes.
12 Q. -- smokes the cigarette through her
throat?
13 All right. Were you involved in any
way in the
14 selection of the media spots which were placed
on this
15 reel that was transmitted to Mr. Wolfe?
16 A. I may have been. I don't recall.
17 Q. Were there any discussions that you
recall that
effective
18 asher&partners wanted to put some of its most
19 advertising in front of Mr. Wolfe?
20 A. I don't recall.
21 Q. If you didn't participate in
discussions
22 regarding the selection of the spots placed in
front of
23 Mr. Wolfe, do you have any understanding as to
who would
24 have?
25 A. No.

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by
1 Q. Would Mr. -- is it your understanding
2 Mr. Schoenfeld may have selected these entirely
himself, or do you know?
4 A. I don't know.
5 Q. Okay. Mr. Schoenfeld in the last
sentence of
6 that first paragraph indicates, quote,
"According to
7 early research indicators and reports from the

field,"

8 comma, "one of the most effective youth
prevention spots

9 ever produced," close quote, in reference to
"Voice

10 Box."

11 Had you seen any of that research at
all?

12 A. Yes.

13 Q. All right. What research is he
referencing?

14 What research and reports from the field?

15 A. There was a study done in Canada of a
lot of

16 antismoking commercials, and "Voice Box" scored
the

17 highest in terms of its effect on teenagers in
Ontario,

18 I believe. In focus groups, the "Voice Box"
spot

19 receives a very high recall. It's mentioned
kind of

20 unprompted frequently in focus groups.

21 Q. Were there any focus groups or
research

22 analysis conducted with respect to "Gala
Event"?

23 A. Yes.

24 Q. Do you recollect what the results
were?

25 A. I believe that many of the males we
researched

377

think twice

1 the spot with said that that would make them
2 about smoking.

3 Q. Okay. Let me draw your attention to
the second

4 full paragraph.

5 MR. VANDERET: The death wouldn't do
it but --

6 BY MR. L'ORANGE:

7 Q. In the second full paragraph Mr.
Schoenfeld

8 makes the following statement:
9 "In fact, we've become one of
10 the very few advertising agencies in
the

11 United States," paren, "along with
12 Crispin, Porter & Arnold," close
paren,

13 "that truly understands how social
14 marketing differs from private sector
15 marketing and, in particular, how to
16 construct social marketing media
17 campaigns for teens, young adults, and
18 adults," period, close quote.

19 Who is the Crispin, Porter agency?

20 A. They are an agency that handles the
media --

21 paid media campaign for the State of Florida as
well as

-- and I
the
efforts.
22 the agency that handles -- one of the agencies
23 don't know all of the agencies -- that handles
24 American Legacy Foundation's new advertising
25 Q. Okay.

378
agency?
1 And Arnold is also an advertising
2 A. Yes.
3 Q. All right. And are they involved in
MSA
4 production as well?
5 A. Yes.
6 Q. Were they involved in Florida at all?
7 A. No.
8 Q. All right.
9 A. Well, I mean, they pitched the
business. They
10 didn't win.
as to
11 Q. Okay. Do you have any understanding
sector
12 what social marketing is as opposed to private
marketing?
13 A. Yes.
14 Q. Could you tell me what that is?
15 A. Social marketing aims to achieve a
change in
private
goods for
16
17 social norms for a variety of subjects. And
18 sector marketing aims to sell products and
19 private sector companies.
in the
20 Q. Do you believe there is a difference
performing social
21 approach that an agency undertakes in
marketing?
22 marketing as opposed to private sector
some things
23 A. I think some things are similar and
24 are different.
correct that
25 Q. In your opinion, is Mr. Schoenfeld

379
agencies
the two
understanding of
what they
with the
1 asher&partners is one of the few advertising
2 that really understands the difference between
3 modes of marketing?
4 A. I can't attest to the level of
5 all the advertising agencies in the U.S. and
6 understand about social marketing.
7 Q. Do you have any reason to disagree
8 statement he set out in the letter?
9 MR. VANDERET: Objection. Asked and

answered.

10 THE WITNESS: I just -- I just
answered that.
11 I don't know what other advertising agencies
understand.
12 BY MR. L'ORANGE:
13 Q. I understand that.
14 My question was, do you have any
reason to
15 disagree with the statement that he's made in
this
16 letter as phrased?
17 A. It's hard to agree with it totally
because I
18 don't know what other advertising agencies
understand or
19 don't understand.
20 Q. Do you agree with the statement that
21 asher&partners is one of the very few
advertising
22 agencies in the United States that truly
understands how
23 social marketing differs from private sector
marketing,
24 irrespective of what anybody else knows?
25 A. I --

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as
1 MR. VANDERET: Object to the question
clause.
2 unintelligible, given that "irrespective"
3 THE WITNESS: Okay.
4 BY MR. L'ORANGE:
5 Q. Same question. We'll drop the
"irrespective"
6 clause.
7 A. I agree that asher&partners
understands social
8 marketing. I did not know what other
advertising
9 agencies' understanding of social marketing is.
10 Q. Do you agree that asher&partners in
particular,
11 as emphasized in this letter, knows how to
construct
12 social marketing media campaigns for teens,
young
13 adults, and adults?
14 A. Yes.
15 Q. Is it your understanding, based on
your review
16 of this letter, that the social marketing media
campaign
17 that Mr. Schoenfeld is referencing in this
letter
18 dealing with teens, young adults, and adults is
the
19 Prop 99 antismoking campaign?
20 A. No.
21 Q. What is he referencing?
22 A. Probably a variety of social marketing
23 campaigns that we've worked on.

has
there in

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1 1994?
2 You've been involved in the HIV
campaign;
3 correct?
4 A. Six that I -- seven that I know of.
5 Q. All right.
6 Can you tell me either the names or
the
you
Tobacco
Division Tobacco
campaign.
A
paragraph of
tobacco
enumerated
true?
382
paragraph of
some of the
true?
third
quote,
understand
change
"and
3 13 campaign for the Children's Bureau of Southern
14 California.
15 Q. If I could interrupt for a minute.
16 That dealt with child abuse and --
17 A. Yes.
18 Q. -- positive parenting?
19 A. No. Well, yes.
20 And the Prop 10 campaign.
21 Q. Now, excuse me, if you will.
22 The remaining sentence in this
23 Mr. Schoenfeld's letter actually addresses
24 prevention and some of the campaigns you just
25 for us; true?

1 A. Could you ask that again. I was --
2 Q. The last sentence of the second
3 Mr. Schoenfeld's letter actually references
4 campaigns that you've just enumerated for us;
5 A. Yes.
6 Q. All right. Now, looking at the -- the
7 sentence, Mr. Schoenfeld says, quote, "We've,"
8 "dug deep," close quote, "over the year to
9 exactly what motivates the general public to
10 health attitudes and behaviors," dot, dot, dot,
11 why," period, close quote.
12 Do you agree with that statement?

enabled
the
social
for us?
99
assessment
health
respect to
25 ETS?

13 A. Yes.
14 Q. And is part of the experience that has
15 Asher to dig deep to achieve this understanding
16 Prop 99 program?
17 A. Yes.
18 Q. All right. In addition to the other
19 marketing programs that you've just described
20 A. Yes.
21 Q. All right. In the context of the Prop
22 program, can you briefly describe for me your
23 of what motivates the general public to change
24 attitudes and behaviors particularly with
25 ETS?

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reduce or
dangers of
children.
of the
are more
characterization?
on to say,
also
creative
25 quote:
11 "And just as importantly we
12 understand what doesn't work," close
13 quote.
14 Would you agree with that?
15 A. Yes.
16 Q. His last sentence indicates, quote:
17 "We've designed and conducted
18 hundreds of focus groups and analyzed
19 dozens of quantitative studies to
20 develop the unique strategies,
concepts, and media tactics needed to
reach and motivate a wide range of
audiences most efficiently and
effectively," period, close quote.
25 Do you agree with that statement?

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groups.
hundreds. I
1 A. I don't know the exact number of focus
2 Yesterday I said a thousand. This says

agree with
don't know
used to
concepts.
develop
belief that
unique
time that
concepts
motivated a wide
efficiently and
exactly.
creative
most
always
more

3 guess I'd have to count them up to totally
4 this statement.
5 Dozens of quantitative studies. I
6 how many have been done in total.
7 I agree that these things have been
8 help us develop unique strategies and creative
9 I disagree that they have been used to help
10 media tactics. And I guess that's about it.
11 Q. All right. Now, have -- is it your
12 in the Prop 99 program you have developed
13 strategies and creative concepts during the
14 you've run the program?
15 A. Yes.
16 Q. And do you agree that these creative
17 and unique strategies have reached and
18 range of audiences in California most
19 effectively?
20 A. I don't agree with that sentence
21 Q. Why do you disagree with it?
22 A. It says that the strategies in
23 concepts motivated a wide range of audiences
24 efficiently and effectively. I'm sure there's
25 ways that you could be even more efficient and

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answer read
most
-- what we
for a
if I'm

1 effective.
2 MR. L'ORANGE: Could I have that
3 back, please.
4 (Record read as follows:
5 "ANSWER: It says that the
6 strategies in creative concepts
7 motivated a wide range of audiences
8 efficiently and effectively. I'm sure
9 there's always ways that you could be
10 even more efficient and more
11 effective.")
12 BY MR. L'ORANGE:
13 Q. I showed you yesterday a copy of the
14 call the Wave 1 report. Ask you to look at it
15 moment, Defendants 97.
16 Now, my recollection -- and correct me
17 wrong -- is your testimony was that you had

skimmed this

18 but not read it thoroughly?
19 A. Yes.
20 Q. Can you tell me when you skimmed the
report?
21 A. No.
22 Q. Has it been within the last year?
23 A. Within the last two years.
24 Q. Okay. Let me draw your attention to

page -- it

25 would be Roman numeral 9. They are printed on
both

386

it says

1 sides. And you'll note at the top of the page,
2 "TCS" -- that would be Tobacco Control Section
--
3 "Funded Community Programs and Statewide Media
4 Campaign," under large A, "Reducing Exposure to
5 Environmental Tobacco Smoke," paren, "ETS,"

close paren.

first

and

6 The first headnote indicates in that
7 sentence that 89 percent of California adults
8 97 percent of 10th grade youth were aware that
9 secondhand smoke disables and kills.
10 Do you see where I'm reading?
11 A. Yes.
12 Q. All right. Based on your supervision

of the

any

leadership of the

disagree with

with it?

reach that

campaign would

22 A. Two reasons.
23 One, my understanding is the maximum
24 could really be achieved with our media
25 be 95 percent, so I don't know how we could get
to

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1 97 percent, necessarily.
2 And I know there was a lot of
disagreement over
3 this report and its accuracy between TCS and
UCSD so --
4 and I'm not sure where they netted out in terms
of the
5 efficacy of all of these results.
6 Q. Were you contacted by either the State

or the

all? 7 researchers for this report for any input at

e-mail or by

8 A. No.

9 Q. Did you forward either a letter or

10 telephone call and advise the State that you

disagreed

11 with the percentages given in the first

headnote under

12 paragraph A?

13 A. No.

14 Q. Have you discussed your reservations

about the

15 97 percent figure with anyone from the State?

16 A. No. I don't know that I've ever read

17 today.

18 Q. But you were certainly aware of the

issue?

19 A. No. I'm just saying, generally, our

campaign

20 reaches 95 percent of the people. You called

my

21 attention to this paragraph. I read it, and

now I'm

22 saying hm, that's weird.

23 Q. Does the fact that 97 percent have

been found

24 to have an awareness of the disabling or lethal

effect

25 of secondhand smoke indicate that there are

other

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people of 1 factors at work in the media place apprising

2 the dangers outside of your media program?

3 A. I don't think it indicates that

clearly. I

4 don't think it indicates that, no.

5 Q. Is that one conclusion one could draw

from that

6 figure, that there are other forces at work,

they're

7 apprising people of the same message that

you're putting

8 out in the media?

9 A. I don't know what conclusions people

could draw

10 from looking at it.

11 Q. Well, one of the conclusions that

you've drawn

12 is the 95 percent figure is wrong; correct?

13 A. No.

14 Q. One of my conclusions is that the 95

percent

15 figure is wrong?

16 A. No.

17 Q. Not 95. 97.

18 A. Yes.

19 Q. Let's go back.

20 You do not believe it's an incorrect

figure?

could be
reached
that could
don't know

21 A. No. I believe the 97 percent figure
22 incorrect based on my belief that our campaign
23 95 percent, although there are other factors
24 attribute to a higher level of awareness. I
25 what this number represents.

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part of

every

report to

for TCS.

substantiate

had a

what

does it

participated

State

was

percent of 10th

effect of

1 Q. Has this report been discussed within
2 asher&partners at any time that you've been a
3 the discussion?

4 A. Yes.

5 Q. Were you -- you were involved in the
6 discussions?

7 A. I don't know if I was involved in
8 discussion of this report.

9 Q. You were involved in some?

10 A. Yes.

11 Q. Can you tell me the nature of those
12 discussions, please, what went on.

13 A. I believe that we looked to this

14 develop some strategic planning recommendations

15 I believe that we looked to this report to

16 some claims in advertising. So we never really
17 discussion about the report in its entirety and

18 does it conclude and what does it say, what

19 mean.

20 Q. Was there any discussion that you

21 in where asher&partners wanted to report to the

22 its disagreement that the reach of its media

23 95 percent, yet the researchers found 97

24 graders were aware of the disabling or lethal

25 environmental tobacco smoke?

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or anyone

reservations about

question.

Stevens or

1 A. No.

2 Q. Have you confided to Colleen Stevens

3 at the Tobacco Control Section your

4 the conclusions reached in this report?

5 A. I didn't say I had reservations.

6 Q. All right. Let me rephrase the

7 Have you discussed with Colleen

percent
today?
the
at the
researchers
smoke
with that
disagree.

8 anyone else in TCS your concerns about the 97
9 figure, or is that something you've arrived at
10 A. It's something I just arrived at -- at
the
11 moment -- at today.
12 Q. All right.
13 Let me ask you, if you would, to look
14 second half of the sentence wherein the
15 conclude, quote:
16 "A majority of the community
17 opinion leaders and 10th grade youth
18 believe that environmental tobacco
19 is a serious problem, concluding that
20 55 percent of the community opinion
leaders and 60 percent of 10th graders
held that view."
23 Do you have any reason to disagree
24 conclusion?
25 A. I don't have any reason to agree or

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with anyone
Asher and
percentages
good job on
variety of
smoke.
awareness.
bet- --
grade youth
At
media
good job
media against
in

1 Q. Have you discussed this conclusion
2 at TCS?
3 A. No.
4 Q. Have you discussed it with within
5 Gould?
6 A. No.
7 Q. Would you agree with me, if these
8 prove accurate, asher&partners did a pretty
9 the Prop 99 reaching adults and youth?
10 A. As we just discussed, there are a
11 things that can lead to awareness of secondhand
12 Asher&partners is partly responsible for that
13 Q. Would you agree with me you've done a
14 pretty good job in reaching adults and 10th
15 in the state?
16 A. Reaching adults and 10th grade youth.
17 times -- at times during the paid portion of
18 campaign, when it was running, I think we did a
19 reaching adults. And when we were running
20 10th grade youths, I believe we did a good job
21 reaching them as well.

at Roman
paragraph,
the bottom of the page.
A. Okay.

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in
during
with that
with this
written.
been ups
during the
Asher;
earlier
looks at
lowest --
percent

Q. All right. Now, I'd like you to look
numeral 2, page Roman numeral 2 of the last
the bottom of the page.
A. Okay.

1 Q. Researchers state, quote:
2 "It should be emphasized that
3 the independent evaluation described
4 this report assessed tobacco control
5 program activities that occurred
6 fiscal years 1994-'95 and 1995-'97,
7 which represents the lowest point in
8 funding levels for the tobacco control
9 program since its inception," close
10 quote.
11 Do you have any reason to disagree
12 statement at all?
13 A. I don't have any reason to disagree
14 statement at the time that this report was
15 Q. And you testified earlier there have
16 and downs in funding in the Prop 99 program
17 years that you've supervised the program for
18 correct?
19 A. Yes.
20 Q. All right. Now, let me rephrase my
21 questions.
22 In light of the fact that this report
23 the time period when the funding was at its
24 A. Hm-hm.
25 Q. -- still, 89 percent of adults and 97

393

that
indicate
other
reaching
asher&partners,
people.

1 of 10th graders were reached and understood
2 secondhand smoke disables or kills.
3 Now, in light of that, would that not
4 to you that asher&partners, in conjunction with
5 forces in the State, did a pretty good job in
6 people?
7 A. If those numbers are correct,
8 together with other efforts and individuals and
9 organizations, has done a good job in reaching
10 Q. All right. Now, some of the

additional efforts
familiar with
Prop 99
the
you're
there are
antismoking
competitive
respect to

11 which would go beyond media that you're
12 could be the county programs administered under
13 through the Department of Health Services, in
14 individual counties; correct?
15 A. Yes.
16 Q. Similar to the program, for instance,
17 familiar with in Los Angeles County; true?
18 A. Yes. Yes.
19 Q. And within the individual counties,
20 also competitive grantees who are conducting
21 or ETS campaigns, are there not?
22 A. Yes.
23 Q. Okay.
24 Have you worked with any of the
25 grantees across the state at any time with

394
information to
worked
112 to
middle of the
director
this
quote.
services

1 either media production or providing
2 them?
3 A. Yes.
4 Q. Can you give me an idea as to whom you
5 with?
6 A. No.
7 Q. Can you tell me approximately when?
8 A. No.
9 Q. Let me draw your attention on Exhibit
10 the last page, and let's skip down to the
11 last paragraph.
12 Mr. Schoenfeld says, quote:
13 "We would also like to
14 specifically offer you and the
15 foundation the services of Christine
16 Steele, a senior vice president at
17 ashier&partners and the project
18 of all of our tobacco education and
19 prevention projects, to consult during
20 the preliminary research phases of
21 important project," period, close
22 Now, basically that's you, is it not?
23 A. Yes.
24 Q. All right.
25 And what he's doing is offering your

395
phase

1 to Mr. Wolfe, at least to consult on the media

correct in 2 that was to be funded by MSA funds. Am I
offering. I 3 that?
Wolfe in 4 A. I don't -- I don't know what he's
important 5 don't know.
said we 6 Q. Did he discuss with you what offer he
him -- 7 to make with respect to your assistance to Mr.
remember us 8 the preliminary research phases of this
any 9 project?
as to 10 A. It was all very general. And he just
Mr. Wolfe? 11 should write a letter to Chuck Wolfe and let
experience on 12 remind him who we are in case he doesn't
to let 13 from the Florida pitch and offer your
wanted any 14 way to him. So it was not specifically tied to
as to 15 specific task or project.
project 16 Q. Did you have any general understanding
17 what assistance you might be asked to render
18 A. Just as someone with a lot of
19 antismoking media campaigns. They just wanted
20 him know where I was and who I was, if he
21 help with anything in the broad sense.
22 Q. Did you have any general understanding
23 what the preliminary research phases of the MSA
24 were?
25 A. No.

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and 1 Q. Mr. Schoenfeld goes on to say, quote,
other 2 parentheses:
3 "Christine has more experience
4 in strategic development, planning,
with that 5 executing media campaigns on tobacco
minutes 6 prevention and cessation than any
stretch. 7 single individual in the country,"
8 period, close paren, close quote.
9 Do you have any reason to disagree
10 statement at all?
11 A. No.
12 MR. L'ORANGE: Let me take about three
13 to get organized, and we'll head into the home
14 MR. VANDERET: Okay.
15 (Recess taken.)

16 MR. L'ORANGE: Okay. Back on the
record.

17 Q. You told us yesterday you had been
deposed once

18 before.

19 A. Yes.

20 Q. Can you tell me briefly what that was
about.

21 A. Sun America was in a lawsuit with Sun
Life of

22 Canada over a name issues.

23 Q. Sun America has an affiliation with
Asher,

24 doesn't it?

25 A. They used to be one of our clients.

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the

1 Q. The deposition had nothing to do with
2 Prop 99 program which you --

3 A. No.

4 Q. You indicated yesterday that you
hadn't really

5 talked to Mr. Silverman at -- is it Western
Media

6 initiative?

7 A. I remember I said they just changed
their

8 name --

9 Q. Right.

10 A. -- and that I don't know the name.

11 Q. Okay. But you had not spoken with him
or seen

12 him recently?

13 A. No. I said I haven't spoken to him
about the

14 Prop 99 campaign, but I have seen him and
spoken to him.

15 Q. Okay. Have you learned or has anyone
told you

16 that Mr. Silverman is working with the
plaintiffs'

17 lawyers in this case?

18 A. No.

19 Q. Were you aware or gain any
understanding that

20 he has created a separate media plan for them
to review

21 and analyze?

22 A. No.

23 Q. Yesterday I asked you whether you had
been

24 contacted by the Preston, Gates & Ellis firm or
the

25 Lexington Law Group, and you indicated, at
least as of

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discuss with

1 the deposition yesterday, you had not.

2 Did you get any calls from them or
them this lawsuit between yesterday and today?

3 A. No.

5 The law firm on top of the subpoena,
that's your
6 firm; right?
7 Q. That's us.
8 A. Yeah, that's the only firm.
9 Q. Okay. Well, you're talking to okay
people.
10 All right.
11 In your testimony yesterday, we had
some
12 discussion about television not always reaching
high
13 income people, recent immigrants, and you
mentioned
14 teens?
15 A. Yes.
16 Q. All right. Now -- and that's with
respect to
17 your media campaign being broadcast over
television.
18 Has Asher done any research as to what
outreach
19 programs may be available to recently arrived
immigrants
20 that deal with antismoking issues, particularly
ETS?
21 A. No.
22 Q. Are you personally aware of any
outreach
23 programs that deal with recently arrived
immigrants that
24 relate information concerning antismoking
messages or
25 ETS?

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1 A. No.
2 Q. Have you discussed that topic with the
State at
3 all?
4 A. I don't recall.
5 Q. Do you have any understanding as to
whether any
program in
recently
messages,
6 of the competitive grantees under the Prop 99
7 California perform an outreach service to
8 arrived immigrants that involve antismoking
including warnings about ETS?
9 A. No, I don't.
10 Q. With respect to teens, do you have any
11 understanding as to whether any of the
12 competitive
programs
13 grantees in the counties in California handle
14 designed to address antismoking messages and
information specifically directed to teens?
15 A. I don't know.
16 Q. Have you undertaken any independent
17 investigation to determine how many competitive
18 grantees

19 have programs of the type I just described for
you?

20 A. No, I have not.

21 Q. All right. Do you have any
understanding as to

American
22 what efforts the private health agencies -- for
instance, the American Academy of Pediatrics,

-- what
24 Cancer Society, American Lung, American Heart

target teens
25 specific programs those agencies have which

400

warnings?
1 in terms of antismoking messages or ETS

2 A. No.

3 Q. All right. Do you have any
understanding as to

4 what school programs exist, administered by the
5 Department of Education, designed to

familiarize teens

6 with the dangers of smoking and ETS?

7 A. No.

8 Q. Have you reviewed at any time any
textbook that

9 is utilized throughout California which
contains

10 information pertaining to the dangers of
smoking or ETS?

11 A. No.

12 Q. Are you aware that such textbooks
exist?

13 A. No.

14 Q. Are you aware that some textbooks have
an

smoking and
15 entire chapter devoted to the dangers of

16 ETS?

17 A. No.

18 Q. Would you agree with me that that
would be yet

the dangers
19 another form in which information concerning

in
20 of smoking and ETS can be communicated to teens

out over
21 addition to the media messages that you send

22 television?

produced and
23 A. I would have to see how it was

24 what it looked like and --

25 Q. All right.

401

whether the
1 Do you have any understanding as to

must have an
2 school districts in the state of California

3 antismoking policy in the school?

4 A. Yes.

5 Q. Do you have any understanding as to

the

through 6 programs administered in the individual schools
address the 7 the California Department of Education that
8 dangers of smoking and ETS?
9 A. Could you say that again.
10 Q. Sure.
11 Do you have any personal understanding
of the 12 types of programs that are administered in the
Education 13 California schools through the Department of
14 that address the dangers of smoking and ETS?
15 A. All I know is that their programs have
been 16 very ineffective, but I don't know what their
programs 17 are.
conclusion 18 Q. All right. And is it your personal
19 they have been ineffective?
20 A. From various research that I've read,
including 21 some of the things I've skimmed in these John
Pierce 22 reports throughout time, I've ascertained,
together with 23 others, that the school programs against teens
have been 24 largely ineffective.
25 Q. Do you have any personal understanding
as to

402
1 why they have been ineffective?
2 A. No.
3 Q. Again, I'm qualifying my ignorance
here, but is
4 it your belief that an ETS ad placed on
television would
5 be more effective in communicating awareness to
the teen
6 population as opposed to a program administered
through
7 the school system?
8 A. It would depend on the strength of the
program
9 administered through the school system versus
the
10 strength of the ad, the show it was placed on,
11 et cetera.
12 Q. Has Asher undertaken any type of
analysis like
13 that to determine the effectiveness of its ads
as
14 compared to the effectiveness of the school
programs
15 being administered through the Department of
Education?
16 A. No.
17 Q. The materials that -- we talked
yesterday about
18 ads, either radio or television or in the print

or
particular
public,
you have
day.

for use by

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Clearing

Primarily

understanding as
order to

looking for a

And the

them a

contacting

how the

CC -- I'm

to

company --

404

other

states that

19 outdoor medium, that once they have run their
20 period that they're going to be shown to the
21 they revert back to -- I believe you indicated
22 custody of them but the State owns them.
23 Do they go -- do any of them -- long
24 Strike that.
25 Are any of them directed to the TECC

1 other organizations, the Tobacco Education

2 House?

3 A. I think on occasion they have been.

4 now everything is sent to the CDC.

5 Q. And do you have any personal

6 to the procedures one has to go through in

7 procure a copy of one of your ads from the CDC?
8 A. There's a contact at the CDC that the
9 individual contacts, and they say, "We're

10 commercial on this topic. What do you have?"

11 person lets them know, and they probably send

12 tape and then review it.

13 Q. Have you ever availed yourself of

14 CDC to procure a copy of your ad just to see

15 system works?

16 A. No.

17 Q. Do you know anybody who has?

18 A. Like a test of the system?

19 Q. Well, no.

20 Do you know someone who has contacted

21 sorry -- someone who has contacted CDC in order

22 obtain a copy of an ad produced by Asher and

23 or asher&partners?

24 A. Yes.

25 Q. Can you tell me who that was?

1 A. People at the advertising agencies for
2 states.
3 Q. Okay. Florida, some of the other
4 you --
5 A. Massachusetts.
6 Q. -- that you indicated yesterday?
7 A. Yeah, that I mentioned.

8 Q. Yesterday, you mentioned to us that
you were
9 aware of at least one evaluation that was
performed by a
10 company called IOX?
11 A. Yes.
12 Q. You were not sure of what the fate of
that
13 company was?
14 A. Correct.
15 Q. I can't remember if I asked you, but
do you
16 have a recollection as to the location of the
company
17 when you last knew of it?
18 A. They were in Los Angeles.
19 Q. Was the correct title of the company
the IOX
20 Company, the IOX Corporation?
21 A. I don't know.
22 Q. Wouldn't have street address and
telephone
23 number, would you?
24 Do you remember the date of the
evaluation that
25 you saw?

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Probably
1 A. Between the years of '92 and '94.
2 1993.
3 Q. And do you have any recollection as to
4 generally how the document was titled?
Evaluation of
5 Prop 99 smoking campaign for the years 1992 to
1994?
6 A. No. I don't recall.
7 Q. Was there a lead author on this study
that you
8 can recollect?
9 A. Yes.
10 Q. Do you remember his name?
11 A. June.
12 Q. Or her name?
13 A. Popham.
14 Q. June?
15 A. P-o-p-h-a-m.
16 Q. Do you have any recollection as to
whether the
17 IOX evaluation or summary was submitted to DHS?
18 A. Yes, it was.
19 Q. And do you know to whom?
20 A. No.
21 Q. Have you ever discussed the IOX study
with
22 anyone at DHS?
23 A. Yes.
24 Q. Can you tell me with whom?
25 A. Colleen Stevens. Dileep Ball. Jackie
Duerr.

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1 Valerie Quinn. Michael Johnson. John Lloyd.

I

2 believe.
3 Q. Did you ever discuss it with April
Rosler?
4 A. I'm not sure. She may have been in
those
5 meetings.
6 Q. Was it ever discussed with Robin
Shamizu?
7 A. She may have been in these meetings.
8 Q. Carol Russell?
9 A. She may have.
10 Q. In the course of -- let me back up.
11 As the supervisor of the Prop 99
program, as
literature
a study
something
for me
myself.
99, have
Tobacco
the
Prevention
Annenberg
12 part of your duties, do you review published
13 that may analyze the effects of the program?
14 For instance, you indicated reviewing
15 by John Pierce, the IOX evaluation. Is that
16 you customarily do as the supervisor?
17 A. Sometimes I have people review things
18 and summarize it. Sometimes I review things
19 Q. In the course of your duties with Prop
20 you ever reviewed a document entitled "Warning
21 California About the Dangers of Environmental
22 Smoke," colon, "The Status of ETS Prevention in
23 State," and it would have been published by The
24 Institute for Health Promotion and Disease
25 research at the USC communications school, the

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1 School?
2 A. I don't recall reviewing that.
3 Q. Do you have any understanding that
anybody who
4 works for you has reviewed it?
5 A. No, I don't know.
6 Q. Has anyone -- your ethnic
subcontractors, the
7 State -- ever made a complaint to you that the
8 antismoking or ETS messages that your program
delivers
9 are based too much in English and there has not
been
10 enough attention paid to other languages?
11 A. No one has ever said there's been too
large of
have
12 an English campaign. Our ethnic subcontractors
money for
13 over the years expressed a desire for more
14 their effort.
15 Q. Have there -- would you characterize

the
complaint?

complaints
those
allocation
voiced
did the

16 expression of the desire for more money as a
17 Am I wording that too strongly?
18 A. Over the years there have been some
19 from the ethnic subcontractors.
20 Q. What has been the State's response to
21 complaints where Colleen Stevens has done the
22 to the ethnic subcontractors?
23 A. Well, the years the complaints were
24 weren't in these last couple of years where she
25 allocations.

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beliefs since
that they

the
Colleen Stevens
that, as
too little

1 Q. Is it the ethnic subcontractors'
2 Colleen Stevens has been doing the allocations
3 have gotten sufficient moneys to communicate
4 warnings they wished to communicate?
5 A. I don't know what their beliefs are.
6 Q. Has anyone during the time that
7 has been doing the allocations had complaints
8 an ethnic subcontractor, they were receiving
9 money?

you?

voiced

doing the

complaints voiced
the ethnic

the

10 A. I don't know.
11 Q. Have they voiced any complaints to
12 A. No.
13 Q. Has Miss Stevens told you they have
14 complaints to her?
15 A. No.
16 Q. Now, during the time that you were
17 allocations, I gather there were some
18 to you about the amounts of money directed to
19 subcontractors?
20 A. Yes.
21 Q. Who were the contractors who raised
22 complaints?
23 A. Carol H. Williams.
24 Q. Anyone else?
25 A. No.

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messages are

1 Q. All right. Now, Miss Williams's
2 delivered in English, are they not?
3 A. Yes.
4 Q. I'm sorry.

5 A. I was just saying she's the
African-American
6 agency.
7 Q. Right. Right. And unlike Imada Wong,
Carol H.
8 Williams is really Carol H. Williams; right?
9 A. Correct.
10 Q. All right.
11 Now, her messages --
12 MR. VANDERET: Imada Wong is really
Imada Wong,
13 too.
14 MR. L'ORANGE: Okay.
15 THE WITNESS: It's Bill Imada and
somebody
16 Wong.
17 MR. L'ORANGE: Oh, all right. Okay.
18 MR. LERNER: Kind of like Allen,
Matkins.
19 MR. L'ORANGE: There really is an
Allen, and
20 there really is a Matkins.
21 MR. VANDERET: There is a Mr. Allen,
and there
22 is a Mr. Matkins.
23 BY MR. L'ORANGE:
24 Q. Now, Miss Williams's messages are
delivered in
25 English; right?

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1 A. Yes.
2 Q. Her complaint was she wanted more
money to
3 increase the messages that were delivered, the
4 frequency?
5 A. She wanted more money for her
advertising
6 effort.
7 Q. Has anyone from the State, any of the
8 subcontractors, anybody within Asher ever
voiced the
9 complaint that your Prop 99 campaign, as
administered by
10 you, is really designed almost exclusively for
adults?
11 A. No.
12 Q. Do you agree with that proposition at
all?
13 A. Restate the proposition.
14 Q. That the Prop 99 program, as
administered by
15 you, is designed almost exclusively for adults?
16 A. The Prop 99 program currently is
designed for
17 adults 18-plus. In the past, it's been
designed for
18 teens and adults and for young children, teens
and
19 adults.
20 Q. Is there a reason why the current
iteration of
21 the program is designed for adults 18 and

older?

22 A. I told you that yesterday.
23 Q. I'm sorry. We covered 286 pages,
believe it or
24 not.
25 A. We did?

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say,
1 Q. Yesterday we were, as Jim Carrey would
2 smoking. No pun intended. I just don't
recollect.
3 A. Okay. So now let me recollect your
question.
4 MR. L'ORANGE: Could you read it back,
please,
5 'cause I can't either.
6 (Record read as follows:
7 "QUESTION: Is there a reason
8 why the current iteration of the
program
9 is designed for adults 18 and older?")
10 THE WITNESS: Because of the American

Legacy

11 Foundation's advertising effort will be
directed at
12 teens.
13 BY MR. L'ORANGE:
14 Q. I'm sorry. I do remember that now.

Okay.

15 And the decision was made that, under
your
16 program, the moneys that normally would be
directed to
17 teens would now be directed to adults because
Prop 10
18 was going -- or the American Legacy Foundation
would
19 address the issue with teens?
20 A. Yes.
21 Q. All right. What I would like to do is

-- why

22 don't we go off the record a minute.
23 (Discussion held off the record.)
24 (The audiotape referred to was
25 marked by the C.S.R. as Defendants'

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1 Exhibit 113 for identification and
2 attached to and made a part of this
3 deposition.)
4 (The audiotape was played.)
5 BY MR. L'ORANGE:
6 Q. Now, Miss Steele, you've had a chance
to listen
7 to the radio spots that are contained on
8 Defendants' 113.
9 Do you recognize the radio spots that
you've